When we postpone or adjourn hearings

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Overview

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A postponement is when a Chair or a panel of the Investigating Committee or Fitness to Practise Committee decides that a hearing needs to be delayed and should not go ahead on the original date scheduled. If this happens, we will rearrange the hearing as soon as reasonably possible.

When the hearing is rearranged, it will be before a different panel of the same committee.

An adjournment is when a panel decides not to continue with the hearing at any point after the charges have been read. When the hearing resumes it will be before the same panel.

Who can ask for an adjournment or postponement?

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We can apply for a postponement or adjournment, the nurse, midwife or nursing associate can apply, or a Chair or Committee can decide for themselves that a postponement or adjournment is needed.

If we haven't yet sent a formal notice of hearing to the nurse, midwife or nursing associate, the decision to postpone a hearing is made by a senior member of our staff.

If a notice of hearing has been sent, the decision to postpone a case is made by a Chair of the Committee.[1] Where it's needed, we'll arrange for a preliminary meeting to consider the application and any representations from the parties in support or opposition to the application.

The decision to adjourn proceedings is made by a panel of the Committee considering the allegations against the nurse, midwife or nursing associate and can be made at any stage during the hearing.[2]

Deciding whether to adjourn or postpone

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In deciding whether or not to grant a postponement or adjournment, the decision maker should consider all relevant factors, including the following.

- The public interest in the efficient disposal of the case

  There is a public interest in considering fitness to practise allegations swiftly, in order to protect the public, and maintain confidence in the professions and us as a regulator. Although delaying a hearing may mean that witnesses find it harder to remember their evidence, there may also be a public interest in delaying the hearing. For instance, if we need more time to get further evidence that will provide the Committee with a full understanding of the concerns when they make their decision.

- The potential inconvenience

  Postponing or adjourning a hearing may cause inconvenience to people who have made themselves available to attend and give evidence on the original hearing dates, and who may be unable to attend a hearing at a later date.

- Fairness to the nurse, midwife or nursing associate[3]

  Postponing a hearing may allow a nurse, midwife or nursing associate, who is unable to attend original hearing

dates, to attend a future hearing and give their evidence in person. For example, due to short term ill health or other commitments that were arranged before they were informed of the hearing date.

f a nurse, midwife or nursing associate is unable to attend the hearing for medical reasons, they'll need to provide evidence that they're unfit to participate in the hearing. That evidence should[4]:

- be an independent opinion following a proper examination of the nurse, midwife or nursing associate
- identify what exactly is wrong with the nurse, midwife or nursing associate, and why their health condition prevents them from participating in a hearing
- identify the practitioner making this assessment, and how familiar they are with the nurse, midwife or nursing associate's health condition
- include a view on the outlook of the health condition

Where consideration is being given to granting an adjournment, the panel should only make the decision to adjourn if no injustice is caused to the parties, and after hearing representations from us and the nurse, midwife or nursing associate, or their representative (where present) and after taking advice from the legal assessor.[5]

Depending on the stage at which the hearing is adjourned, the panel and the parties should consider if any witnesses might need further support at the resumed hearing, such as being provided with the transcript of their evidence if they are partway through giving their evidence.[6]

f an adjournment is granted, the panel shall also consider whether to impose an interim order.

The panel will ask for representations from us and the nurse, midwife or nursing associate, or their representative where present). The panel will deliberate in private and announce the decision, providing reasons. We will send a notification of the decision to the nurse, midwife or nursing associate.[7]

1 Rule 32(1) of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 ('the Rules')
2 Rule 32(2) of the Rules
3 Rule 32(4) of the Rules
4 Levy v Ellis-Carr [2012] EWHC 64 (Ch) as affirmed in GMC V Hayat [2018] EWCA Civ 2796
5 Rule 32(2)(a) and (b) of the Rules
6 The starting point should be that a witness should be allowed to have a transcript of their evidence unless it would be unfair to do so. See Rule 27(2) of the Rules and BGC Brokers LP and others v Tradition (UK) Ltd and others [2019] EWHC 3588 (QB), in which Eady J refused an application to prohibit witnesses from accessing the daily transcripts until they had completed their testimony.
7 Article 31(14) Nursing and Midwifery Order 2001