

This resource was developed for the

**Pacific Judicial Strengthening Initiative
Solomon Islands**

NATIONAL JUDICIAL WORKSHOP

Remote delivery: Honiara
21-23 October 2020

DRAFT HIGH COURT ADJOURNMENT PRACTICE NOTE

Session 2: Court Management & Delay

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Draft Adjudgment Practice Note for the Solomon Islands High Court

This practice note has been developed to provide some guidance on the process and grounds for adjournments.

It is the policy of the Solomon Islands High Court and Court of Appeal to provide justice for citizens:

- Without unnecessary delay
- Without undue waste of time
- Without undue waste of resources of the court, the litigants and other participants.

As a starting point, the Court does not favour adjournments of matters scheduled for hearing without good reason. An adjournment should never be automatic and should only be granted for good reason. If the right to a fair trial is prejudiced, it is normally a good indication as to whether the adjournment should be granted.

Process

Requests for adjournment

1. Requests for an adjournment must be made in writing or by email.
2. If the request for adjournment is by consent, then the request must be signed (or agreement by email) by both lawyers/parties and state a reason for the adjournment.
3. If a request for adjournment is received from one party, then the other party shall be notified of the request and given an opportunity to respond.
4. Requests by consent must be made no later than XX working days before the court event for which rescheduling is requested.
5. Requests by one party must be made no later than XX working days before the court event for which rescheduling is requested.

Court adjournments

6. In certain circumstances, the Court itself may adjourn matters.
7. The Court may also adjourn a matter where parties fail to appear, there is a lack of jurisdiction, a witness has failed to appear, or for evidence reasons.

Granting an adjournment

8. Any grant of an adjournment shall be made on the court record. The record will contain information about who made the request and the reasons for granting it.
9. In granting an adjournment there are a number of factors that a Judge may consider including, but not limited, to:
 - a) Overall interests of justice
 - b) The right to a fair trial is prejudiced
 - c) What is necessary in order to do justice between the parties

- d) The reason for the request to adjourn
- e) Effect of the adjournment on the parties (including victims)
- f) When a new hearing can be scheduled
- g) Interests of the public
- h) Any fault causing the delay
- i) Whether all parties consent to the adjournment.

10. Every adjournment must be made for a specific time and date.

Grounds

11. As a guide to practitioners/applicants, the following will generally not be considered sufficient cause to grant an adjournment:

- a) The case has not previously been adjourned
- b) A party wants a new lawyer
- c) Unavailability of a witness who has not been subpoenaed
- d) A party or counsel is unprepared to try the case
- e) A police officer or other witness is either in training or on vacation (unless it is done sufficiently in advance to enable another case to be scheduled).

12. The following may be considered sufficient cause to grant an adjournment:

- a) Sudden medical emergency (not elective medical care) or death of a party, counsel, or material witness
- b) A party did not receive notice of the setting of the hearing date through no fault of that party or their counsel
- c) Facts or circumstances arising or becoming apparent too late in the proceedings to be fully corrected and which, in the view of the Court, would likely cause undue hardship if the hearing proceeds as scheduled
- d) Facts or circumstances arising or becoming apparent too late in the proceedings to be fully corrected and which, in the view of the Court, could cause a miscarriage of justice if the hearing proceeds as scheduled
- e) Unanticipated absence of a material witness for either party
- f) Illness or family emergency of counsel.

Monitoring and Review

13. The Chief Justice shall review the adjournment rate periodically to ensure the consistent application of this policy. The adjournment rate is the average number of times a disposed case was listed before the court that required the attendance of at least one party at the court; and whether or not any substantive outcome was actually achieved at any hearing.