

# D. INFORMATION SHEET: WITNESSES, SUMMONS AND EVIDENCE



The *Rules of Procedure* set out important requirements related to calling witnesses and using evidence. Please see the [Rules of Procedure](#) for more information, and in particular *Rule 10, Evidence, Rule 13, Hearings, and Rule 7, Disclosure* of the [Rules of Procedure](#).

## Witnesses

### *Who can be a witness?*

A witness is someone who has knowledge about an event or issue and is able to give evidence about what happened. Witnesses deal with facts. The best kind of witness is someone who has direct knowledge of events that are relevant to your case.

You (the appellant) can be a witness at your hearing but are not required to do so.

Witnesses are required to swear an oath or affirmation that their evidence will be true, and may be asked questions by other parties and/or the Panel during the hearing.

### *Can witnesses be excluded from a hearing?*

In some cases, the HRAP may require that witnesses not be present at the hearing except when they are providing evidence. This helps to ensure that their evidence is not influenced by the evidence of other witnesses or the information in the hearing. For information about attendance at a hearing by witnesses, please see *Rule 13.4-13.6, Exclusion of Witnesses*, of the [Rules of Procedure](#).

## Expert Witness

### *Who is qualified to be an expert witness?*

You may want to have an expert witness provide a report or provide evidence at the hearing about your case. An expert witness is an individual who has specific professional education, training and experience that may be permitted to testify or provide evidence with respect to their specific field as it relates to a matter being heard by the HRAP. Expert witnesses may give opinion evidence while other witnesses may not ordinarily do so.

### *How do I rely on the evidence of an expert witness?*

If you intend to call an expert witness then you must serve notice on all other parties within **30 days**, unless otherwise ordered by the Panel. The responding parties to the hearing can serve the notice **20 days** before the hearing.

The notice must include an acknowledgement of expert's duty signed by the expert. For information on what to include in the notice, please see *Rule 7.8 – 7.10, Expert Witnesses* of the [Rules of Procedure](#) and [Notice of Expert Witness & Acknowledgement of Expert's Duty](#)

### *How do I raise concerns with an expert witness' qualifications?*

If you want to challenge an expert's qualifications, report or witness statement, give notice to the other parties as soon as possible (and within **15 days** before the hearing) and include your reasons for the challenge. You also have to file a copy with the HRAP.

## Summons to a Witness

### *How do I request a witness attend the hearing?*

If you are concerned that a witness will not attend the hearing, you can ask the HRAP to issue a summons for the witness to attend. Please complete the [Summons to a Witness](#) form and file it with the HRAP for signature. You are responsible for serving the document (signed by HRAP) on the witness. The summons must be served personally on the person summoned.

Please note that you are responsible for paying witness' fees and allowances in accordance with Tariff A under the [Rules of Civil Procedure](#).

You can include in your *Summons to a Witness* a requirement that the witness bring with him or her certain documents and things to be produced at the hearing.

### Evidence

#### *What is evidence?*

Evidence deals with facts and is information that is submitted to prove a case. The most helpful evidence is usually direct and relevant original documents and statements by eyewitnesses.

#### *What is a document for the purposes of evidence?*

A document is any information that is recorded or stored, and can include paper documents, videos, and photographs, etc. If you want to submit a document as evidence in a hearing, you need to file the original (or a copy) with the Panel at the hearing. This is known as the official exhibit.

#### *Do I need the original of a document?*

Providing the original of a document is ideal because it can be used to show that the copy has not been changed. If you only provide a copy of a document, the authenticity of it can be challenged and it may not be allowed as evidence, or it may be allowed as evidence but given less weight.

#### *When do I file my evidence with the Panel?*

In order to have your evidence considered by the Panel, it has to be presented and filed as an official exhibit at the hearing. You are **not** required to file this documentation with the HRAP in advance. The Panel will not have access to evidence before the hearing.

#### *Do I need to bring extra copies of my documents?*

Yes. You should bring copies of any documents or materials that you intend to enter as evidence for:

- The HRAP (to be filed as the official exhibit);
- each Panel member at the hearing;
- the court reporter;
- each witness through whom the document is being introduced, if any; and
- each party (if you did not already serve them with these documents).

#### *When can race videos be useful evidence?*

Race videos can be useful evidence in many cases, such as when there is a race infraction or question about the order of finish. The AGCO will often provide a copy of the official race video. You may bring your own video copy, but please note that issues surrounding authenticity and altering may be raised. If you require a copy of the official race video please ensure you request it from the AGCO.

#### *What if I want to present a video during the hearing? Will I require equipment to play the video?*

Contact the HRAP Office who will work with you to make the necessary arrangements.

#### **Relevant Forms:**

- [Summons to a Witness](#)
- [Notice of Expert Witness & Acknowledgement of Expert's Duty](#)

#### **Last updated: February 2017**

*This information sheet is intended to provide general information to appellants and other related parties regarding the appeal process of the Horse Racing Appeal Panel. It does not constitute legal advice. If any information in this information sheet is not consistent with the Rules of Procedure, the Rules of Procedure will prevail.*

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