

## Toronto Local Appeal Body

*(Practice Direction No. \_\_\_\_\_)*

*(Expert Witnesses)*

An expert witness is a person who qualifies to be defined as such under the Rules of the Toronto Local Appeal Body (TLAB).

The Rules speak to the qualifications and responsibilities of a person asking to be acknowledged as capable of rendering opinion evidence in a subject area or areas of knowledge or experience.

The fundamental purpose of recognizing and admitting the testimony of a recognized expert is to assist the Tribunal in its function of deliberating on the issues before it. That assistance is not to tell the Tribunal what it should do, but rather to provide qualified opinion evidence in support of an assessment, direction or other element relevant to the decision making process.

In providing that assistance, the expert is required to be independent, hold the public interest as paramount, and swear on oath or affirmation to confirm such and be of assistance to the Tribunal as to matters within the area of competence and expertise professed.

In this regard the TLAB has the following expectations:

1. A candidate for expert recognition before the TLAB and holding membership or affiliation in a professional body with standards for conduct and discipline will meet or exceed those standards;
2. The candidate will complete and file, in accord with the Rules of the TLAB, an Expert Witness Statement and an Expert's Acknowledgement Attestation in the Forms provided and maintain the same as complete, current and accurate throughout his or her engagement;

3. Swear upon oath or affirmation that during the course of their evidence, they will state the truth, the whole truth and nothing but the truth.
4. Respond to such questions or perform such tasks as the Tribunal may reasonably request of them in pursuit of addressing the matters before the Tribunal;
5. Any person intending to challenge the professional qualifications of a candidate Expert Witness, the independence, personal integrity or to otherwise impugn the reputation of an Expert Witness must do so with adequate Notice and disclosure in advance of the convening of a sitting of the Tribunal with such challenge then to be raised at the outset of the swearing in of an Expert Witness, all as a component of the consideration for the admission and qualifications process for an Expert Witness.
6. The responsibility in paragraph 5, above, does not include disclosure of challenges to an Expert Witness that may arise in the course of cross-examination or questioning that are unrelated to professional qualifications, independence, personal integrity or reputation but relate directly to the evidence or opinions stated by the Expert Witness in his or her assessment of the matters in issue before the Tribunal.
7. Any person having knowledge of an impediment to the qualification of an Expert Witness giving evidence or testimony before the Tribunal but who is not a Party or Participant to the proceeding in issue must do so in accordance with paragraph 5, above, in addition to performing any other obligation incumbent on such person in accord with the rights and privileges afforded as a member of the public or as a member of an organized profession with membership qualifications and responsibilities, and he or she may do so without fear of favour or sanction by the Tribunal.

*(December, 2019)*