

hcpts

health & care
professions
tribunal service

Information for witnesses

A guide to giving evidence at fitness
to practise hearings

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Introduction

About this brochure

A fitness to practise investigation sometimes ends with a substantive hearing which you will be required to attend. Our hearings may be held virtually or physically, and in some cases a mixture of both.

Your role in a hearing is really important and we only ask you to take part if we think your involvement is necessary to the case.

This brochure explains your role at a hearing, what happens before an after a hearing, and what **support** is available to those attending.

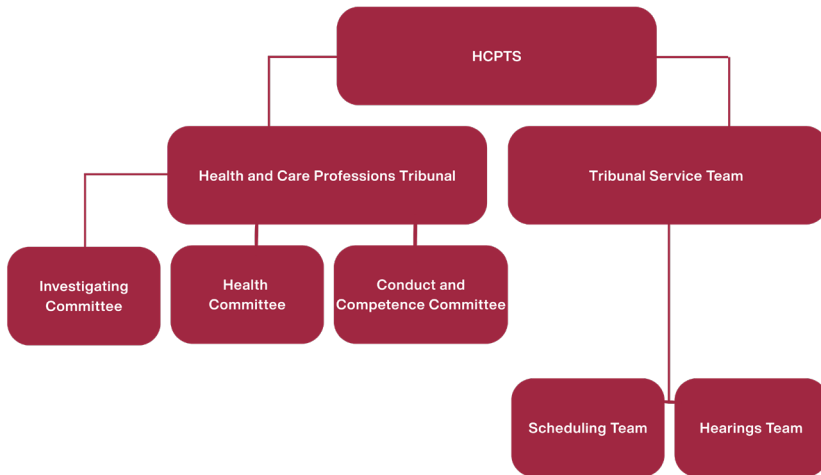
What is the HCPTS?

The Health and Care Professions Tribunal Service (HCPTS) is the fitness to practise adjudication service of the Health and Care Professions Council (HCPC).

Although it is part of the HCPC, the distinct identity of the HCPTS seeks to emphasise that hearings are conducted and managed by independent panels which are at arm's length from the HCPC.

Structure

The HCPTS comprises of both independent panels which hear and determine cases on behalf of the HCPC's Practice Committees and a Tribunal Service team which provides operational support to those Committees. The Scheduling Team lists all fitness to practise proceedings. The Hearings Team provides support to panels and other participants at hearings and is responsible for publishing panel decisions.



The hearing

How will I know when to attend a hearing?

Once an Allegation is ready to proceed to a substantive hearing, the HCPC and any instructed solicitors refer the matter to the Tribunal Service. The Scheduling team arrange a hearing and, in doing so, take account of the availability of the registrant, witnesses, and other participants.

Witnesses for HCPC

The Scheduling team contact you for dates to avoid, after which they send you a Notice of Hearing with details of the format, location, and date and time at which you are required to attend.

The Hearings Officer gets in contact with further details and instructions on your attendance closer to the hearing.

Witnesses for the registrant

The HCPTS asks the registrant to provide dates to avoid for themselves, their representative, and any witnesses they intend to call to give evidence. Once the hearing date is scheduled, the registrant or their representative should notify you of the hearing format, the date of the hearing, and the day(s) on which you are likely to give evidence.

Who is in the hearing room?

The Panel

The three members of the Panel are independent from the HCPTS and are solely responsible for making the decisions

Panel Chair: leads the hearing

The Lay Panel Member: is not part of any profession which the HCPC regulates

The Registrant Panel Member: is registered with the HCPC in the same profession as the registrant

Other parties

Registrant: The person about whom a fitness to practise concern has been raised

Legal Assessor: A lawyer who gives advice on matters of law and procedure. They are independent from the panel but may assist in drafting its decision

Hearings Officer: A HCPTS staff member who facilitates the hearing and supports all parties

Presenting Officer: A lawyer who presents the case on behalf of the HCPC

Transcriber:

A person who records the hearing so that a verbatim transcript can be produced if required.

Members of the public:

Hearings are usually held in public. This means that members of the public (including the press) are able to attend. Information heard in public may result in reports in the media. Sometimes all or part of a hearing is held in private due to the personal and confidential information that may need to be shared with the panel. The public are not allowed to be present when proceedings are held in private.

Hearing format

How will the hearing take place?

HCPTS hearings can be held in three different formats, namely:

Virtual: All parties attend remotely via video-conference

Physical: All parties gather in person in one location

Hybrid: Some parties attend physically in one location whilst the rest attend remotely via videoconference

Virtual Hearing

Hearings are scheduled as virtual in the first instance unless there is a request for physical attendance from the HCPC or registrant, or a compelling reason to hold the hearing in another format.

A virtual hearing is conducted via Microsoft Teams. In order to participate through videoconference, you must have a compatible device and connection speed to ensure the video-conference link will work throughout the hearing. The device must have a camera and microphone enabled so that the live video and audio is available.

The Hearings Officer is your first point of contact at the hearing. You will receive pre-hearing communication from them, including joining instructions and an invite to conduct a test call if desired. The Hearings Officer will confirm the time at which they would like you to join the virtual hearing and provide updates throughout the course of the hearing.

Reminder: Please ensure that you join the hearing from a private room where you will not be overheard or disturbed. If for any reason you are disturbed during the hearing, please flag this to the other participants and the Hearings Officer immediately.

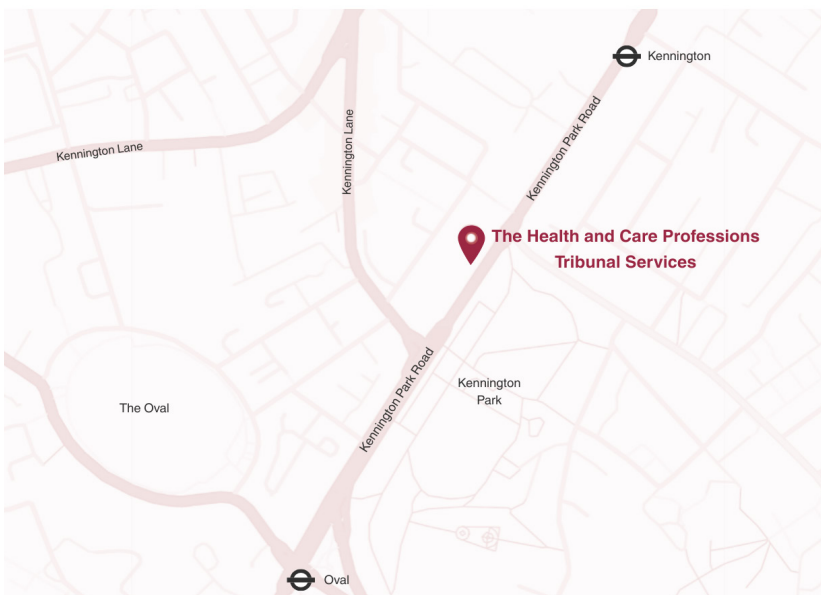
Physical Hearing

Physical hearings must be held in the UK country in which the registrant's registered address is located. If a hearing needs to be in Scotland, Wales, or Northern Ireland, it should be held in an easily accessible location where possible. If the registrant resides in England or lives overseas, the hearing is to take place in London unless there is a compelling reason to hold it elsewhere. The majority of physical hearings are held at our dedicated Tribunal Centre in London at the following address:

Health and Care Professions Tribunal Service
184-186 Kennington Park Road
London
SE11 4BU

When you arrive at the Tribunal Centre you should sign in at the main reception. You will be directed to the witness waiting area. Hearings take place on the first and second floors of the building and lift access is available to all hearing participants. If you have any mobility issues, please raise these when the hearing is being scheduled.

There is public Wi-Fi as well as complimentary tea and coffee



Other Venues

Physical hearings that take place away from the Tribunal Centre are usually held in conference facilities.

If you are attending a hearing at a venue that is not our Tribunal Centre, you need to report to the main reception at that venue. The venue staff will direct you to the designated waiting area and inform the Hearings Officer that you have arrived. The layout of the hearing room will be similar at any venue.

If you have any questions about a particular hearing venue, please raise these with the [Tribunal Service](#) team.

Hybrid Hearing

A hybrid hearing may be scheduled to accommodate the needs and requirements of all key participants.

For example, a registrant may wish to have a physical hearing to cross-examine the witnesses in person, but a witness may have restrictions in place that prevent them from travelling.

In contrast, there may be a request from a witness to give their evidence in person, but the registrant and/or their representatives' preferred means of holding a hearing is virtual.

Our hearing rooms in the Tribunal Centre are equipped with video conferencing facilities. If a panel agrees that you can give evidence virtually, the Hearings Officer will arrange a Microsoft Teams invite to the hearing room and ensure that the necessary paperwork has been sent to you in advance by the HCPC or its instructed solicitors.

If a venue is being booked for a sole participant to give evidence from, the Scheduling team will find an appropriate venue that is within a reasonable distance from their home, with on-site support from a member of the HCPTS if required.

What happens at a hearing?

The hearing process

It is common for panels to consider the first three stages of a hearing – facts, grounds, and impairment – all together.

Sometimes, depending on the nature and complexity of the case, a panel may make its decision on which facts it finds proved before considering the statutory ground and impairment.

Facts

The presenting officer for the HCPC sets out the factual background to the Allegation and may call witnesses in support of the evidence. The witnesses join the hearing individually in turn. The first stage of giving evidence is called examination in chief. The witness is asked to confirm their witness statement and asked clarifying questions on behalf of the HCPC. Once this is completed, witnesses may be cross-examined by the registrant or their representative if they are present. The panel can also ask questions. Witnesses can then be re-examined, after which their evidence concludes and they can leave the hearing. The registrant can then give their own evidence to the panel and call witnesses to support their case. The registrant and any witnesses they call may be cross-examined by the HCPC presenting officer. The panel can also ask questions of the registrant and their witnesses.

When the panel makes its decision on the facts, it uses the civil standard of proof (the 'balance of probabilities', whether it is more likely than not to have happened) to decide if any or all of the facts are proved.

If the panel decides that the facts alleged have not been proved, it concludes the hearing at that point. If it finds any of the facts proved, it goes on to consider the statutory ground of the Allegation.

Grounds

Based on the proven facts, the panel considers whether those facts amount to the alleged statutory ground (for example, misconduct or a lack of competence). This is a matter of judgement for the panel. If the panel decides that the facts do not amount to the ground, the hearing concludes. If it decides that the ground has been established, it moves on to consider whether the registrant's fitness to practise is impaired.

Impairment

The panel must decide if the registrant's fitness to practise is currently impaired, not whether it was impaired when the proven events took place. It considers factors such as insight and remediation, public protection, and public confidence. If the panel does not find impairment, the Allegation is not well found and the hearing concludes. If the registrant's fitness to practise is found to be impaired, the panel goes on to consider what, if any, sanction should be imposed.

Sanction

The panel hears submissions from the HCPC presenting officer and (if present) the registrant or their representative about what, if any, sanction should be imposed. The panel is helped by the guidance in the HCPC Sanctions Policy. The purpose of sanctions is to protect the public, not to punish registrants. Public protection is the most important consideration. The panel must also take account of the registrant's interests and the wider public interest. This includes protecting service users, declaring and upholding standards for the profession concerned, and maintaining public confidence in that profession and the regulatory process.

A panel may:

1. take no further action or order mediation;
2. caution the registrant (place a warning on their registration for up to five years);
3. set conditions of practice which the registrant must meet;
4. suspend the registrant from practising (for no more than one year); or
5. strike the registrant from the HCPC Register.

The panel carefully considers the individual circumstances of each case and takes into account all that has been said at the hearing before making its decision

Giving Evidence

Taking an oath or affirmation

When you enter the hearing room you are sworn in, either with an Oath or Affirmation (depending on your personal preference). An Oath is accompanied by a holy book. If you are attending virtually and choose to take an Oath, you need to have a copy of the relevant holy book with you. An Affirmation is secular and does not require you to swear on any holy book.

They have the same effect and are both a promise that you will tell the truth when giving evidence. You should inform the Hearings Officer of your preference before the hearing. If you have any particular needs in respect of taking an Oath, please alert the Tribunal Service team before the hearing.

Documents and Equipment

You receive a copy of your witness statement and related exhibits in advance of the hearing via a secure document portal, with instructions from the relevant solicitors. Please make sure that you have a device available (e.g. laptop, iPad) on which to view the documents during your evidence.

If the hearing takes place in person, you receive a paper copy of your witness statement to read in advance. The exhibits and hearing bundle are placed on the table in front of you at the hearing.

You are not allowed to have any extra documents with you during your evidence.

Things to note:

- Giving evidence is not a memory test; if you have made a witness statement and it has been submitted to the panel, you will have a copy of this statement available to refer to.
- Take your time to think about the questions being asked.
- If you do not understand a question or do not know the answer, you should tell the panel.
- Direct your answers to the panel, not the person asking you questions.
- Try to speak slowly and clearly when giving evidence so that everyone can hear you and has an opportunity to note down what you say.
- If you need a break during your evidence, you can request one.

Whether you are giving evidence on behalf of the registrant or the HCPC, you may be cross-examined about what you have said. Panel members may also ask questions about your evidence.

Some of these questions may feel uncomfortable but they are important to help establish what happened, for the purpose of preventing another similar incident or concern in future. The HCPC and registrants have a right to put their case and the panel has a duty to test the evidence.

How many days will I be needed for?

It is often difficult to estimate what time you will be called to give evidence or how long you will be needed for. You may need to be flexible about your availability on the days when a hearing is taking place. You can discuss any issues around availability with the [Tribunal Service](#) team prior to the hearing

What if I become unavailable?

Once you have provided dates to avoid, you should not alter these until you are notified of the hearing date. You should not make any other arrangements on the day(s) you have been asked to give evidence. We appreciate that you are giving up your time to attend a hearing; however, if a witness does not attend it could cause the hearing to adjourn for several months. If something arises which may affect your ability to attend, please contact the [Tribunal Service](#) team as soon as possible

Reasonable Adjustments

We appreciate that attending hearings can be stressful. We aim to hold hearings in a fair and inclusive manner and appreciate that everyone has different needs.

If you require any adjustments to the format of documents (such as braille, enlarged print, or electronic formats) please inform the [Tribunal Service](#) team at least four weeks before the hearing so that we can make the necessary arrangements.

If you require assistance at the hearing with reading documents or understanding the hearing (such as an interpreter or specific learning disability adjustments), or you have other concerns, please contact the [Tribunal Service](#) team when you are first asked to attend. We can discuss your needs and ensure that appropriate adjustments are in place.

Support Available

We understand that the process of attending a hearing and giving evidence may be intimidating and unfamiliar.

Talking to someone about being a witness

If you have concerns about giving evidence, you should alert whoever has asked you to attend the hearing, i.e. the HCPC and its instructed solicitors or the registrant. Relevant information should be passed to the HCPTS so we can discuss any accommodations which can be made to assist you when giving evidence.

If you would find it useful to arrange a test call or see an empty hearing room before you give your evidence, please speak to the [Tribunal Service](#) team.

Special measures for giving evidence

In some circumstances, parties can apply for special measures to help you give evidence in the least stressful way.

For example, in a virtual hearing a registrant may join with audio only or, in a physical hearing, a witness may give evidence from behind a screen. These arrangements ensure that a witness cannot be seen by, or see, the registrant during their evidence.

In cases where a registrant is unrepresented and the Allegation is of a sexual nature, the HCPC appoints a lawyer to cross-examine any witness who is the subject of that alleged conduct. This ensures the witness is not directly addressed or questioned by the registrant.

The use of special measures must be approved by a panel.

Lay advocacy service (POhWER)

We have an independent lay advocacy service available to people who, due to a health condition, disability, or distressing life event, need support to go through what can be a complex regulatory process. POhWER advocates can provide information so that the people they work with can make informed choices and decisions. Please speak to the [Tribunal Service](#) if you would like to access POhWER's services.

After the hearing

After you have given evidence you are released from your Oath or Affirmation. The hearing continues and the panel hears from other witnesses and/or the registrant, if present. Once all stages of the hearing have concluded, the Hearings Officer provides you with the outcome of the hearing and the panel's written decision.

In cases where a registrant's fitness to practise is found to be impaired, the panel's decision and any sanction imposed are published on the HCPTS website. The public version of the decision provides details of the background to the case, the evidence that was heard, any order which the panel made, and the reasons for its decision.

If you have any questions, you can request a debrief call with a member of the [Tribunal Service](#).

Feedback

We continually strive to improve our services and we value the feedback of all hearing participants. All feedback received is reviewed regularly and, when requested, we respond directly to any specific enquiries or suggestions you may have.

A link to the [Witness Feedback Form](#) is sent to witnesses at the end of each hearing. We would be grateful if you could fill in this form based on your experience with the HCPTS.

Contact Details

If you have queries about the hearing date or what happens at the hearing, please contact the Tribunal Service team on tsteam@hcpts-uk.org or by telephone on [+44 \(0\)808 164 3084](tel:+44(0)8081643084)

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