

hcpts

health & care
professions
tribunal service

Information for witnesses

A guide to giving evidence at
fitness to practise hearings

Contents

Introduction 1

About this brochure 1

What is the HCPTS? 1

The hearing 2

Who is in the hearing room? 2

Giving evidence 3

Tips for giving your evidence 3

What happens at a hearing 4

How will I know when to attend a hearing? 6

Hearing venue 7

Where will the hearing take place? 7

Arriving at our Tribunal Centre 8

How many days will I be needed for? 9

What if I become unavailable? 9

Reasonable adjustments 9

Support available 10

After the hearing 11

Feedback 12

Contact details 12

Introduction

About this brochure

The process of giving evidence at a hearing can be intimidating. This brochure will explain your role at a hearing, what happens before and after a hearing and what support is available to those attending.

What is the HCPTS?

Purpose

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:

- The Health and Care Professions Tribunal – the Panels which hear and determine cases on behalf of the HCPC's three Practice Committees: the Conduct and Competence, Health and Investigating Committees; and
- The Tribunal Service team, which provides operational support to the Tribunal. The Tribunal Service scheduling team is responsible for listing all fitness to practise proceedings. The Tribunal Service hearings team is responsible for providing support to Panels and other participants at hearings and is also responsible for publishing Tribunal decisions.

The hearing

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: The panel member who leads the hearing

Lay Panel Member: A panel member who is not a member of a profession that the HCPC regulates.

Registrant Panel Member: A panel member who is registered with the HCPC

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 the Panel in drafting its decision.

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

Presenting Officer: The person who presents the case on behalf of the HCPC.

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.

A verbatim transcript of the hearing is produced by a transcriber who is also present at the hearing.

Giving evidence

Taking an oath

When you are called to give evidence you will be shown into the hearing room by the hearings officer and shown to the witness table. Before you give evidence you will be making a religious oath on a holy book of your choice or making a secular affirmation. They have the same effect and are a promise that you will tell the truth when giving your evidence. You should inform the hearings officer of your preference before entering the hearing room and if you have any particular needs in respect of taking an oath please discuss these with the Tribunal Service team before the hearing.

There will be a copy of your witness statement and any exhibits on the table in front of you. You are not allowed to bring any extra documents into the hearing room.

Tips for giving your evidence

- 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 in the hearing room.
- 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 the Panel has an opportunity to note down what you say.

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 the panel have a duty to test the evidence.

What happens at a hearing

The hearing process

The common procedure at the HCPTS is for panels to hear evidence and submissions on the facts alleged, the statutory ground of the allegation and the issue of impairment together. This may vary depending on the nature and complexity of the case. For example, the panel may separate the steps and make its decision on which facts it finds proved before going on to hear submissions on 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 enter the hearing, in turn, to give their evidence. The first stage of a witness giving evidence is called examination in chief. Once this has been completed witnesses may be cross examined by the registrant or their representative and re-examined. The registrant then has the opportunity to give evidence to the panel and to call witnesses to support their case. The registrant, and any witnesses they call may be cross-examined by the HCPC presenting officer and re-examined. The panel are also likely to ask questions of the registrant and the witnesses called by both sides.

When the Panel retires to make its decision, it needs to consider if any or all of the facts are proved. The Panel use the civil standard of proof (the 'balance of probabilities'). This means that the Panel will consider a fact proved if it finds that it is more likely than not to have happened.

If the Panel decides that the facts alleged have not been proved, it will conclude the hearing at that point. If it finds any of the facts proved it will go on to consider the ground of the allegation.

Grounds

On the basis of the facts which it has found to be proved, the Panel will go on to consider whether those facts amount to the statutory ground of the allegation (for example, misconduct or

a lack of competence). Whether the proven facts amount to the ground is a matter of judgement for the panel. There are five possible statutory grounds to an allegation. If the panel decides that the facts do not amount to the ground, the hearing will conclude. If it decides that the ground has been established, it will move on to consider whether the registrant's fitness to practise is impaired.

Impairment

The Panel has to decide if the registrant's fitness to practise is currently impaired, not whether it was impaired when the events to which the allegation relates took place. In view of this, the Panel may need to know more about what has happened since those events occurred. If the Panel does not find impairment then the allegation is not well founded and the hearing will conclude. However, if the registrant's fitness to practise is found to be impaired, the Panel will go on to consider what, if any, sanction should be imposed.

Sanction

The Panel will hear further submissions from the presenting officer and the registrant about what, if any, sanction should be imposed by the Panel. In reaching its decision, the Panel will have regard to the HCPC's Indicative Sanctions Policy. The purpose of fitness to practise hearings is to protect the public, not to punish registrants. In considering what sanctions to apply, public protection is the most important consideration. The Panel must also take account of the interests of the registrant and the wider public interest. The public interest includes protecting service users, declaring and upholding standards for the profession concerned and maintaining public confidence in that profession and the regulatory process.

At this stage the 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 that the registrant must meet;
4. suspend the registrant from practising (for no more than one year); or
5. strike the registrant from the 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.

How will I know when to attend a hearing?

Once the HCPC has concluded its investigation and decided to proceed with an allegation, it will refer the matter to the Tribunal. At that point the HCPTS scheduling team will arrange a hearing and, in doing so, will take account of the availability of the registrant, witnesses and other participants.

Witnesses for HCPC

The HCPC will pass your details to the scheduling team who will contact you for dates to avoid. The scheduling team will send you a notice of the hearing venue and the date and time at which you are required to attend.

Witnesses for the registrant

The HCPTS will ask the registrant concerned to provide dates to avoid for the registrant, their representative and any witnesses the registrant intends to call to give evidence. Once the hearing date has been scheduled the registrant or their representative will notify you of the hearing venue, the date of the hearing and the day on which you are likely to give evidence.

Hearing venue

Where will the hearing take place?

We must hold a hearing in the UK country where the registrant lives. We hold hearings in Belfast, Cardiff and Edinburgh and in other cities throughout the UK. However, the vast majority are held at our dedicated Tribunal Centre in London at the following address.

Health and Care Professions Tribunal Service
405 Kennington Road
London
SE11 4PT

Other venues

Hearings that take place away from the Tribunal Centre usually take place in conference facilities.

If you are attending a hearing at a venue that is not our Tribunal Centre you will 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.

Arriving at our Tribunal Centre

When you arrive at the Centre you should sign in at the main reception. The building has access for wheelchair users and those less able to stand. If you have any mobility issues please raise these when the hearing is being scheduled. Hearings take place on the second and third floors of the building and lift access is available to all hearing participants.



There are two main waiting areas for witnesses in our Centre, on the second and third floors, which a reception team member will direct you to. There are separate waiting rooms for registrants.

There is public Wifi as well as complimentary tea and coffee.

If you would like more information on our Tribunal Centre and its facilities, please refer to our website or view our virtual tour at www.hcpts-uk.org/attendingahearing/virtualtour

How many days will I be needed for?

It is often difficult to estimate what time you will be called to give evidence. Hearings may overrun so you may need to be flexible about your availability on the days when a hearing takes 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 and you should not make any other arrangements on the days you have been asked to attend. 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 when you are at the hearing to help you read documents or understand the hearing (such as an interpreter, specific learning disability adjustments) or have mobility issues, please contact us when you are first asked to attend and we can discuss your needs and ensure that appropriate adjustments are put in place.

Facilities

Our Tribunal Centre is fully accessible and our hearing rooms have a range of resources that can facilitate the logistical and technical needs for our hearing participants. We have eight hearing rooms over two floors which include two separate witness waiting areas. Each hearing room has a corresponding private room for the registrant and their representative. If you have any dietary requirements please let us know in advance of the hearing and we will do our best to accommodate your needs.

Attending remotely

Our hearings rooms are equipped with video conferencing and teleconferencing facilities. We also have a separate private video conferencing room that connects to the main hearing rooms which help to facilitate the needs of our most vulnerable hearing participants.

If a Panel has agreed that you can give evidence via a video link, our Tribunal Service team will organise the link to the hearing room for you and will ensure that the necessary paperwork is sent to you in advance.

Support available

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

Talking to someone about being a witness

If you have any concerns about giving evidence, you should discuss them with the relevant legal representative or registrant as soon as possible. They should pass on any relevant information to the HCPTS and we can contact you to discuss any concerns that you may have about giving evidence.

Facilities for vulnerable witnesses

The facilities and layout of the Tribunal Centre are set up to help prevent you feeling anxious or intimidated. We have a private waiting room for vulnerable witnesses and depending on the circumstances of the case special measure may be put in place

by the Panel to help you give evidence. If the hearing is taking place at another venue please contact the Tribunal Service team to discuss any concerns you may have.

Special measures for giving evidence

In some circumstances, parties can apply for special measures to help you give your evidence in the least stressful way. The use of special measures must be approved by a Panel.

For example, a witness may give evidence from behind a screen or over a video link from outside the hearing room. In that case the witness would be accommodated in a room on a different floor of the building or from a different location.

In cases where a registrant is unrepresented and the allegation involves conduct of a sexual nature, the HCPC will appoint a lawyer to cross-examine any witness who is the victim of that alleged conduct.

If you would find it useful, you may be able to visit the venue where a hearing will be held in advance of that hearing. We may also be able to arrange for you to see an empty hearing room, if one is available, before you give your evidence. If you would like to do so, please speak to the Tribunal Service team.

After the hearing

After you have given evidence you can request a telephone call from the Tribunal Service team, who can help you understand the decision that the Panel has made and direct you to other supporting organisations.

Feedback

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

Witness feedback forms are sent to witnesses at the end of each hearing and hard copies are available in the witness waiting area. All witness feedback can be sent to witnessfeedback@hcpts-uk.org or to the following address.

Health and Care Professions Tribunal Service
405 Kennington Road
London
SE11 4PT

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

hcpts

health & care
professions
tribunal service

405 Kennington Road
London
SE11 4PT

Tel: 0808 164 3084
www.hcpts-uk.org

**To request this document in Welsh
or an alternative format,
email hearings@hcpts-uk.org**



RECYCLED
Paper made from
recycled material
FSC® C012830

© Health and Care Professions Council 2017

Publication code: 28032017HCPTSwitness

This publication is produced using trees from sustainable forests.