

Health and Care Professions Tribunal Service

PRACTICE NOTE

Unrepresented Registrants

This Practice Note has been issued for the guidance of Panels and to assist those appearing before them.

Introduction

1. This Practice Note sets out the issues that Panels should consider when dealing with registrants who are unrepresented. It is also intended to assist unrepresented registrants and to enable greater engagement.
2. Proceedings before Panels are designed to enable registrants to represent themselves. But for many registrants the prospect of having to appear before a Panel may nonetheless be daunting.
3. An unrepresented registrant may be apprehensive or nervous about having to present a case before a Panel and this may manifest itself in apparently difficult, challenging or defensive behaviour. Panels and Legal Assessors need to be aware of this and must take reasonable steps to assist unrepresented registrants. A registrant, however anxious, who is engaged with the hearing is:
 - a. more likely to provide relevant information and evidence, to assist the Panel in making informed decisions and meet its statutory objectives; and
 - b. more likely to perceive that they have been listened to and treated fairly, and thereby have greater confidence in the regulatory process, irrespective of the outcome.
4. Helpful information about hearing procedure, as well as relevant legislation and Practice Notes can be found on the HCPTS website. Information for registrants preparing in advance of their hearing can be found at: [HCPTS | Preparing for your hearing \(hcpts-uk.org\)](https://www.hcpts-uk.org)

5. For details of useful contacts and support during the fitness to practise process please see: [HCPTS | Contacts and support \(hcpts-uk.org\)](https://hcpts-uk.org)

Maintaining a fair balance

6. Unrepresented registrants may be unfamiliar with law or procedure relevant to the proceedings and should be allowed some freedom in the presentation of their case.
7. Panels and Legal Assessors must ensure that an unrepresented registrant has every reasonable opportunity to make their case, to ensure the hearing progresses fairly and without any undue delay. Special care should be taken to ensure that unrepresented registrants understand what is happening and are put at ease, including:
 - a. enabling the registrant every reasonable opportunity to make their case;
 - b. being patient at all times and making appropriate use of adjournments;
 - c. explaining what will happen in straightforward terms, avoiding legal jargon or, where it cannot be avoided, explaining what it means;
 - d. explaining what the registrant may or may not do, why and when;
 - e. trying to get the registrant to identify the issues in dispute and ensuring that the registrant has said what they need to say;
 - f. giving clear reasons for any rulings or decisions that are made.

Guidance to be provided to Unrepresented Registrants

8. Panels and Legal Assessors must give clear procedural guidance in every case, but it is especially important to do so in cases where a registrant is unrepresented. As a minimum the following must be explained:
 - a. who the members of the Panel are and how they should be addressed;
 - b. who the other people present are and their respective roles;
 - c. that, if the registrant has any special requirements or needs any reasonable adjustments, which the Panel have not already been notified of in advance of the hearing, they will need to raise this at the start of proceedings. If during the hearing, the Panel and/or Legal Assessor considers that the registrant may benefit from a reasonable adjustment, even if the registrant has not raised any special requirements, they should raise it with them;

- d. the procedure which the Panel will follow – information on the procedure of different types of hearing can be found at: [HCPTS | Stages of a hearing for Registrants \(hcpts-uk.org\)/](https://hcpts-uk.org/);
 - i. that the registrant may raise objections to the legal admissibility of evidence, but this does not include where the registrant simply disagrees with the content of the evidence. The registrant can challenge the content of evidence they disagree with through cross examination of the witness, in their own evidence to the Panel, or in their submissions to the Panel;
 - e. the implications of the registrant choosing whether or not to give evidence to the Panel (for example, that if the registrant chooses to give evidence they can be cross examined by the HCPC's Presenting Officer and asked questions by the Panel);
 - f. that the registrant may make notes, and may have a friend or colleague sitting alongside to make notes or offer moral support;
 - g. that both the HCPC and the registrant will have the opportunity to present their case, and that the registrant should not interrupt when someone else is speaking, but should make a note of the point and raise it when it is their turn to speak;
 - h. that, if the registrant would like a short break in the proceedings at any time, that is likely to be granted;
 - i. that, if the registrant does not understand something or has a problem related to the case, they should tell the Panel so that it can be addressed by the Panel Chair.
9. It will be extremely useful for preliminary discussions to take place before the start of a hearing with the Legal Assessor, the registrant, and the HCPC's Presenting Officer. During these discussions much of the above guidance can be provided to the registrant in a less formal setting to allow them a chance to absorb the information, and ask any questions before the hearing formally commences. Although it is important that procedural guidance is provided to unrepresented registrants, they must not be provided with guidance as to how to run their case.
10. It is important to ensure that the registrant has time to put their case as the hearing proceeds, but the Panel Chair needs to balance this appropriately with ensuring that the time allocated to the hearing is properly managed.

The role of the Legal Assessor

11. The role of the Legal Assessor is to provide advice and guidance on law and procedure to the Panel. They are independent of the Panel and do not play any part in the decision-making process although they may assist with the drafting of Panel decisions.
12. Where there is an unrepresented registrant, the Legal Assessor can assist the Panel by explaining procedures and giving guidance to the registrant.
13. The Legal Assessor can play a key role in assisting the registrant, for example, helping the registrant to put a point to a witness in the form of a question. However, Legal Assessors cannot act for an unrepresented registrant, for example, by putting questions on behalf of the registrant or making submissions on their behalf.
14. Panels and Legal Assessors should also be careful not to interfere in matters which must be decided by the registrant alone, such as whether to give evidence or make submissions.
15. Legal Assessors should not speak to unrepresented registrants without the HCPC Presenting Officer or HCPTS Hearings Officer being present. This is to ensure that there is no risk of any perceived bias or questions raised about what has or has not been said.

Questioning of witnesses

16. An unrepresented registrant who is unfamiliar with the process of examination and cross-examination may make statements to, rather than asking questions of, witnesses. They may also on occasion adopt an aggressive, offensive or unnecessarily confrontational approach to the questioning of witnesses.
17. Although such behaviour is likely to arise inadvertently, Panels should protect witnesses from questioning which goes beyond the acceptable limits of testing or challenging their evidence by means of cross-examination. Striking the right balance on this issue can be difficult, but Panels or the Legal Assessor should intervene as necessary in order to protect the interests of witnesses while respecting the registrant's right to a fair hearing.
18. Guidance on the appropriate way to question witnesses can be found at: [HCPTS | Practical tips for effective questioning and probing techniques \(hcpts-uk.org\)](https://www.hcpts-uk.org/practical-tips-for-effective-questioning-and-probing-techniques)
19. Panels should have due regard to the Cross Examination (Sexual Cases) Practice Note which sets out the procedure to be followed in cases involving allegations of

a sexual nature, which prevents an unrepresented registrant cross examining a witness in person in such cases.