

Health and Care Professions Tribunal Service

PRACTICE NOTE

Use of Welsh in Fitness to Practise Proceedings in either Wales or England

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

Introduction

This Practice Note reflects the HCPC's requirement to comply with the Welsh Language Standards set out in a Compliance Notice¹ issued by the Welsh Language Commissioner to HCPC. The HCPC must comply with the majority of these Standards by and from 06 December 2023. In terms of the arrangements for hearings, the Welsh language should be treated no less favourably than the English language, regardless of whether a registrant lives in Wales or England.

Background

Article 22(7) of the Health Professions Order 2001 provides that fitness to practise proceedings must take place in the UK country of the registrant. Thus, if a person's address on the HCPC register is in Wales, then the proceedings must take place in Wales².

The relatively small size of many of the HCPC professions and the need for Panels to include at least one person from the same profession as that of the registrant concerned means that only a limited number of Welsh-speaking Panel members are available to the HCPC. Given that fact, and the HCPC's very limited experience of registrants requesting that legal proceedings be conducted in Welsh, it will rarely be feasible for Panels to be appointed which are able to conduct proceedings in Welsh without prior notice.³

Case management

¹ Such standards are contained within both the Compliance Notice and The Welsh Language Standards (No. 8) Regulations 2022.

² Any remote hearings concerning a person whose address on the HCPC register is in Wales are deemed to take place in Wales.

³ For the avoidance of doubt, it should be noted that the arrangements set out in this Practice Note apply to legal proceedings which take place in Wales or England if the registrant wishes to use the Welsh language in those proceedings.

Registrants who are subject to an HCPC investigation or proceedings may submit forms and documents or make written representations in Welsh.

When first contacting a registrant under investigation, the HCPC is required to check if they wish to receive copies of forms or documents in Welsh. In addition, upon first contact from a registrant in response to proceedings, the HCPC is required to check or re-check if the registrant wishes to receive forms and documents in Welsh and ask whether the registrant wishes to speak in Welsh in those proceedings. The HCPC will notify a Panel in advance if a registrant has made such a request.

Panels should manage cases effectively to ensure that proceedings are conducted fairly, with the Welsh language being treated no less favourably than the English Language. The Panel can ensure that appropriate case management arrangements are made.

An early indication that Welsh may be used will help the Panel to manage the case more effectively and so should not be delayed until more definitive information or detail about the use of Welsh is available.

Once more detailed information is available it should be provided to the Panel. This includes details of:

- any person wishing to give oral evidence in Welsh; and
- any documents or records in Welsh which a party expects to use.

Directions and preliminary hearings

Panels may need to give directions or hold a preliminary hearing for the management of a case, either in respect of the use of Welsh or more generally.

At this stage, it would assist the Panel if parties could indicate whether Welsh may be used in the proceedings if they have not already done so. Equally, where a party has already done so, it would be helpful if this could be confirmed or not (as the case may be).

The Panel may direct that some or all of the legal proceedings will be conducted in Welsh or, if necessary, arrange for simultaneous or consecutive translation/interpretation.

Interpreters

If an interpreter is needed to translate evidence from English to Welsh or from Welsh to English, the HCPTS will appoint an interpreter.

Where possible, and unless the nature of the case calls for some special linguistic expertise, interpreters should be drawn from the list of approved interpreters maintained by the Welsh Language Unit of HM Courts and Tribunals Service or from those who have similar experience of simultaneous or consecutive interpretation in legal proceedings.

Oaths and affirmations

When witnesses are called in hearings, Panels should ensure they are informed that they may choose to swear an oath or provide an affirmation in Welsh or English.