

## The Role and Duties of Committee Members

### The Chair

The Chair is the main point of contact for all parties during the course of a hearing and it is the Chair's responsibility to ensure the smooth running of proceedings.

### Open session of the hearing.

During the open session of a hearing, it is the Chair's responsibility to ensure that:

- The proceedings are conducted within the Fitness to Practise Committee Rules 2005, Parts 6-10.
- The Committee members are asked to introduce themselves and the capacity in which they sit; introduce the Legal Adviser, Transcriber and Hearings Officer to those attending the hearing.
- The time is used effectively in that the Chair should intervene if the Presenting Officer/ the registrant's representative / the registrant (if not represented) strays from the issue or repeats arguments previously made and understood by the Committee.
- The Chair should discuss issues relating to time keeping, availability of witnesses, etc, with the parties and Committee Members at appropriate points during the hearing.
- Those appearing before the Committee, including witnesses, are treated with courtesy and consideration.
- Those appearing before the Committee engage with the process as effectively as possible by ensuring that any questions asked of them are capable of being understood; that cultural differences are taken into consideration; that all reasonable adjustments are made accordingly.
- The Chair is prepared to intervene if a witness appears distressed while giving evidence and if appropriate, order an adjournment to give the witness time to compose themselves before continuing.
- The Legal Adviser is asked to provide advice on any points of law which may arise and at any point before the Committee goes into private session, and to announce whether the Committee sought advice on any points of law from the Legal Adviser during the private session.
- Where a specialist adviser is present, that adviser acts within the limits of the role.
- Where a member has a declared disability of any kind, the member's disability should be taken into account at all stages throughout the hearing. The Chair will be briefed by

the Hearings Officer prior to the hearing regarding documentation that has been made available to any members with a declared disability.

- Where a disability is known and made public, the Chair should ensure that it is made known to all parties at the hearing that they should make appropriate efforts to accommodate the disability.
- Where a member has a disability which they do not wish to be declared publicly, the Chair should accommodate this, if possible, throughout the hearing. However, if no disability is made known to the Chair, it follows that no accommodations can be made.
- Comfort breaks are taken as appropriate.

### **Private sessions**

When the Committee is private at any stage during the decision-making process, it is the Chair's responsibility to ensure that:

- The time is used effectively.
- The Committee members understand the issues under consideration and remain focussed on them.
- Firstly, there is a general discussion of the issues so that each Committee Member can express initial thoughts on what they consider to be important or not important.
- All Committee Members contribute to the discussion and decision making.
- If necessary, the Chair should ask any Committee member who appears to be dominating the discussion to allow others to speak and to bring in others who appear not to be contributing to the discussion through reticence.
- The Legal Adviser contributes any relevant legal advice where necessary but does not dominate any discussion or attempt to engineer the wording of any determination.
- Others express their views before the Chair contributes (this avoids any perception that the Chair is influencing the views of others).

## Committee Members

Committee members should always be aware that:

- They are not bound by their initial thoughts on the case as other members may have identified issues which the member had not previously considered or thought sufficiently important but which, on reflection and having heard the views of others, places a different complexion on the case.
- They should not feel under pressure to change their views because they are in a minority.
- The purpose of the private discussion is to explore fully the aspects of the case:
  - (i) The relevant evidence both oral and documentary.
  - (ii) The weight to be given to that evidence.
  - (iii) The submissions made by both parties.
  - (iv) If possible, to reach a consensus.
  - (v) Where it is impossible to reach a consensus, to vote.

Any decision taken by the Committee must be in the public interest which includes:

- (i) The protection of patients.
- (ii) Maintenance of public confidence in the profession.
- (iii) Declaring and upholding proper standards of conduct/behaviour

*(Not to be confused with a finding on facts which is simply determination of whether the Committee has found the facts to be proved; this finding is not a "decision" that can be informed by patient protection, maintenance of public confidence or upholding proper standards)*

- Decisions of the Committee are taken by a simple majority. A Chair may not exercise a casting vote and no member of the Committee may abstain from voting and where the votes are equal, the Committee must decide in favour of the registrant.
- The determination of the Committee reflects the decisions taken by the Committee as a whole and gives clear reasons for their decisions at each stage.
- The Committee members may seek advice from the Legal Adviser on structuring the determination but the decisions and the reasons for those decisions must be arrived at by the Committee members only.

- The Chair reads out the determination in open forum.
- Where a member has a declared disability of any kind, the member should inform the Hearings Officer and Chair of that disability. The Chair will inform both parties that appropriate efforts will have to be made to accommodate that disability during the course of the hearing.
- Any disability that the member does not wish to be made public may impact upon the member's ability to follow proceedings and must be declared to the Chair.

## The Hearing

### General

**Fitness to Attend.** A Committee member who considers that they are not able to attend a sitting should inform the Hearings team at the earliest opportunity in order that a replacement may be nominated.

**Travel and accommodation.** When attending hearings and other FTP Committee business, travel and accommodation requests must be made via the facilities team using the standard form. The most cost-efficient travel method should always be undertaken.

**Arrival and Timings.** As a general rule, all hearings are scheduled to commence at 9.30 a.m. unless specified otherwise and you should aim to check-in at least 30 minutes before so that any points of housekeeping can be carried out. This will include the election of a chair, introductions, any pre-reading of hearing documents etc. If you are delayed through transport problems, you should contact the allocated Hearings Officer at the earliest opportunity and provide an estimated time of arrival.

**Conduct of members.** Members are encouraged to remain at the venue during any breaks to ensure there are no unnecessary delays and during those breaks you should ensure no alcohol is consumed.

**Interruptions during proceedings.** During the course of a hearing where a Committee member is experiencing difficulty hearing the person who is addressing the Committee, it is acceptable for the member to immediately ask the speaker to raise his/her voice and repeat what was said.

**Witness questioning.** During the course of the hearing, members may wish to raise questions of the person giving evidence but must refrain from doing so as the questions occur and instead compile a list of questions they may wish to raise at the appropriate juncture.

**Fees and expenses.** Claims for fees and expenses should be forwarded to the Hearings team as soon as possible following attendance at a hearing or other FTP Committee business. The claim form and envelope will be supplied to each member on the day of attendance.

### **Hearings staff contact**

Email: [Hearings@optical.org](mailto:Hearings@optical.org)

Tel: 020 7580 3898