

**Council**  
**9 July 2020**  
**Interim Remote Hearings Protocol**

<b>Classification</b>	Public
<b>Purpose</b>	For decision
<b>Issue</b>	To enable us to continue to discharge our statutory function effectively during the COVID-19 pandemic we need to convene hearings remotely. The Interim Remote Hearings Protocol provides guidance for attending a remote hearing and covers the process, presentation and access to documentation together with the management of witnesses.
<b>Recommendation</b>	To approve the publication of the Interim Remote Hearings Protocol.
<b>Financial and resourcing implications</b>	None
<b>Equality and diversity implications</b>	An Equality Impact Assessment has been carried out and is attached at Annex B.
<b>Communications implications</b>	The protocol will be communicated to all fitness to practise stakeholders by the Regulation Team, subject to Council's approval. A public consultation will also be required later in the business year.
<b>Annex</b>	A – Interim Remote Hearings Protocol B – Equality Impact Assessment
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## Background

1. At the start of lockdown, on 26 March 2020, we took the decision to postpone all final hearings that had not yet commenced until after 3 July 2020. This followed government advice on COVID-19 and is in line with the other healthcare regulators. This decision was taken to help protect the health of osteopaths, witnesses, and all parties who were scheduled to attend our hearings at Osteopathy House in London.
2. To continue to meet our public protection duties we identified those hearings which needed to take precedence, and since the lockdown began, we have been managing urgent hearings remotely, including hearings of interim suspension orders, reviews and some part-heard cases. At the time of writing, the PCC have met remotely to hear two reviews, one interim suspension order application and one part-heard case. The IC have met four times and there has been IC interim suspension order application hearing.

## Discussion

3. The remote hearings that we have held to date have proceeded successfully, with all parties able to connect with the online platform and fully participate. We have regularly been liaising with other regulators who have been running some hearings remotely and have started to extend online facilities to substantive hearings. We have conducted a literature review of emerging protocols and guidance within other jurisdictions, including the civil courts. For example, HM Courts and Tribunals Service has also moved many of its services online.
4. Because of the continuing uncertainty regarding the pandemic we consider it likely that some form of social distancing will be in place for some time in all the devolved countries within the UK. The health and safety of all hearing participants remains of paramount importance and we will not return to hosting attended hearings until we can be satisfied that hearing participants will not be placed at undue risk and this is in line with government advice. We recognise that the indefinite postponement of substantive hearings is not in the public interest or the interests of justice. The timely consideration and determination of fitness to practise concerns is vital in fulfilling our overarching duty of protecting the public.
5. There are currently 25 cases that have been referred to the PCC for a substantive hearing but have not yet been heard. We have conducted a review of each individual case and have identified those which we consider to be suitable for remote hearings. In doing so, we have carefully considered whether there are any possible adverse impacts for the fairness of the hearing. There are a small number of cases that are not suitable for remote hearings. The majority of these cases are however suitable to be heard as 'blended' hearings (or sometimes referred to as 'hybrid'), where some of the participants attend Osteopathy House in person and some by video-link.

6. We have identified just two cases which are not currently suitable for remote or blended hearings. We are keeping both cases under continued review as our experience of remote hearings develops, to consider whether a workable solution can be found.
7. We have now listed seven of the 25 cases awaiting hearing for remote or blended hearings. In addition, there are three review hearings and one re-listed part-heard hearing scheduled for the coming months.
8. The process of a remote hearing throws up different considerations to that of an attended hearing. The Interim Remote Hearings Protocol is designed as a document which can be circulated to all participants in upcoming hearings to provide guidance and support with the process.
9. The protocol provides a detailed explanation of what to expect and how to participate in remote hearings. The protocol is intended to be a comprehensive document covering the whole hearing process and addressing anticipated questions about joining and participating in remote hearings.
10. The purpose of the guidance is to make the remote hearing process accessible to all parties and ensure that they run as smoothly as possible. It will also ensure that our approach to remote and blended hearings is more fully understood which in turn will enhance the transparency of our procedures.
11. We obtained feedback and insights from the Patient Focus Group which met online on 4 June 2020. The session focussed on the possible impact of giving evidence at remote / blended hearings from a patient perspective. We also arranged a training event on 22 June 2020, at which the draft protocol was introduced to PCC panellists. The feedback obtained from the training has been incorporated into the protocol.

## **Next Steps**

12. We anticipate that the GOsC will be reliant on remote or blended hearings for the consideration of fitness to practise cases for several months. We will however continue to keep hearings management under review and work towards a return to attended hearings for some cases, as and when it is appropriate and safe to do so.
13. It is likely that there will be benefits to retaining the option of running remote hearings for some cases even after we have returned to hosting most hearings at Osteopathy House once again. These include: improved accessibility for parties who are unable to attend in person; and improved availability of FtP panel members and Legal Assessors for urgent hearings.
14. The interim remote hearing protocol will in due course be developed further as we carefully evaluate and learn from our experiences of remote hearings both at the

GOsC and other jurisdictions. We are also proposing to Council that a period of public consultation takes place later this year or early 2021.

**Recommendation:**

15. To approve the Interim Remote Hearings Protocol.