



Hearings guidance for osteopaths



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INTRODUCTION

Maintaining patient safety and public confidence in the osteopathic profession means that we must investigate and consider complaints about osteopaths' conduct, competence or health.

The aim of this booklet is to provide guidance to osteopaths about preparing for and attending a hearing before our Professional Conduct Committee or Health Committee.

This booklet provides general guidance only. It is not a substitute for any legal advice or advice from your professional indemnity insurers.



BEFORE THE HEARING

You will have received a letter from your caseworker telling you that we have made a decision to hold a hearing in your case before our Professional Conduct Committee or Health Committee.

Your caseworker will have also asked you to complete a listings questionnaire to confirm that you can attend the hearing.

It is also important that you let us know, before the hearing, about any accessibility needs or other needs that you have (for example, wheelchair access, a hearing-loop system, or a sign or language interpreter), so that we can make the necessary arrangements.



LEGAL REPRESENTATION

We advise you to tell your legal representative about our decision to hold a hearing. They will be able to give you advice and information about the hearing and what you need to do to prepare for it.

If you are not represented, you should get independent legal advice or contact your professional indemnity insurers for help with the hearing and the steps we are taking.

If you are a member of the **Institute of Osteopathy (iO)**, you can contact them for help and advice.

If you have no legal representation through your professional indemnity insurers and you are not a member of the iO, you may be able to get free legal help from the Bar Pro Bono Unit (**www.barprobono.org.uk**), a charity that helps find free legal help from volunteer barristers.

PRACTICE NOTES FOR HEARINGS

We have produced a number of practice notes to help you and your legal representatives prepare for the hearing. These are available on our website at: **bit.ly/GOsC-practicenotes**

Paper copies are also available – please ask us if you would like one.

PREPARING FOR THE HEARING

When your case is referred by the Investigating Committee, your caseworker will send you or your legal representative (or both of you) a listings questionnaire requesting information that is relevant to the length and timing of the final hearing. We will use the information you provide in the questionnaire to more accurately assess how long it will take us to complete the case and when it can be listed for hearing. If possible, we will try to take into account your availability and that of your witnesses when listing your case for hearing and give you as much notice as possible. We aim to list hearings within six months of the case being referred by the Investigating Committee.

We will then send you or your legal representative (or both of you) a notice of hearing, and a hearing schedule, at least 28 days before the hearing. The notice of hearing confirms the following information:

- the date, time and place of the hearing
- the names of the witnesses that we intend to call at the hearing
- the names of the committee members that will hear your case
- confirmation that you have a right to attend the hearing or be legally represented (or both).

We will also give you a copy of our bundle of evidence at least 28 days before the hearing. This will contain the formal allegation and the detailed charges (known as the factual particulars), and all of the evidence that we intend to rely on at the hearing.

SUBMITTING DOCUMENTS

You or your legal representative (or both of you) will also receive an email from the hearings officer or clerk telling you the date by which you need to do the following (if you have not done so already):

- confirm the names of the witnesses that you intend to call at the hearing
- submit your skeleton argument (a written document given to the Professional Conduct Committee before the hearing which summarises the issues in your case)
- submit all of the evidence that you intend to rely on.

DECIDING NOT TO ATTEND THE HEARING

You or your legal representative (or both of you) should confirm to your caseworker whether you plan to attend the hearing.

If you decide not to attend the hearing, you can still be legally represented at it. Your caseworker will tell you the outcome.

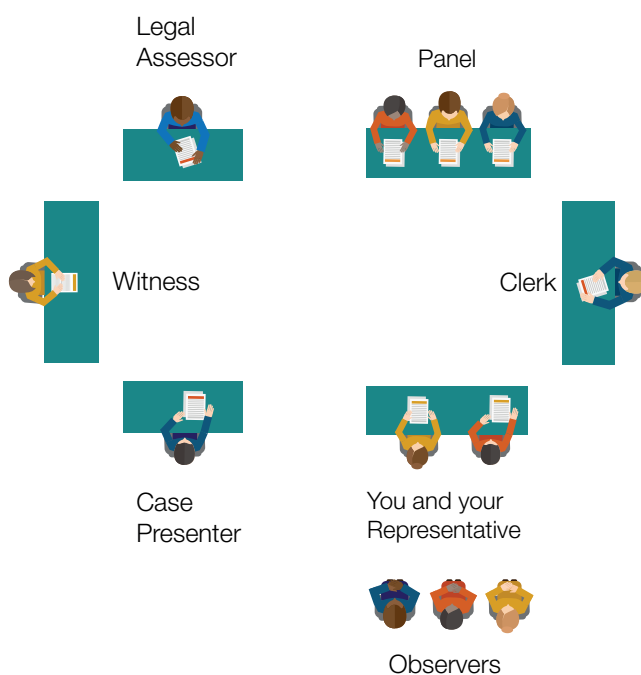
If you decide not to attend the hearing or be legally represented at it, the Professional Conduct Committee or Health Committee may go ahead anyway. There is a practice note on our website on '**Proceeding in the Absence of the Registrant**' which you may find useful.

ATTENDING THE HEARING

On the first day of the hearing, you should aim to arrive at least 20 minutes before the hearing is due to start. When you arrive, a member of staff will take you to your private waiting room. If you are legally represented, your representative will also be asked to wait in the same room as you.

Refreshments such as coffee, tea and water will be available while you wait.

The diagram below gives you an idea of how the hearing room will be set up on the day.



THE PROFESSIONAL CONDUCT COMMITTEE AND LEGAL ASSESSOR

The Professional Conduct Committee is made up of three committee members. There will be at least one osteopath member and one lay member. The chair will be a lay member.

A legal assessor will also be present to advise the Professional Conduct Committee on matters of law and procedure. The legal assessor will play no part in the decision-making process.

Before the hearing, the Professional Conduct Committee will be given a copy of our bundle of evidence and any documents received from you.

THE CASE PRESENTER AND WITNESSES

Our case presenter and witnesses (the complainant and any other people who have given a statement in the case) will also be present at the hearing. They will be asked to wait in another private waiting room.

HEARINGS OFFICER OR CLERK TO THE PROFESSIONAL CONDUCT COMMITTEE

A clerk will also be present to help with the smooth running of the hearing.

PUBLIC, PRESS AND OBSERVERS

Hearings are usually held in public, unless there is a reason why some or all of the hearing has to be held in private. This means that members of the public (including the press) are also able to attend.

There are seats available at the back of the hearing room where members of the public can sit.

You can bring someone with you for support – perhaps a friend or relative. If you do bring someone with you, they will be asked to sit in the public seating area inside the hearing room.

RECORDING

The clerk will make an audio recording of the proceedings.

DURING THE HEARING

At the start of the hearing, the clerk will take you and your legal representative into the hearing room and show you where to sit.

Please make sure your mobile phone is switched off before you enter the hearing room. Cameras, tape-recording equipment and any other device capable of making a permanent record are not allowed in the hearing room.

The hearing will begin with the chair of the Professional Conduct Committee introducing themselves and everyone else who is present in the room.

You or your legal representative will be asked to confirm your name.

Our case presenter will be asked to read out the allegation about you.

The chair of the committee will then ask you to confirm whether you admit to any of the facts alleged. If you do admit to any of the facts alleged, those facts will be found proved.

If you admit to all of the facts alleged, the chair will formally announce that all the facts have been admitted and are proved. The committee will then move on to the next stage of deciding whether the facts proved amount to unacceptable professional conduct – see below.

If you dispute some or all of the facts alleged, our case presenter will formally open the case and the hearing will follow the procedure below.

The case presenter will present the evidence to support our case first. They may call any witnesses in the case and ask them questions once the witnesses have taken an oath or an affirmation. This is called examination-in-chief.

You or your legal representative will then have an opportunity to ask our witnesses any questions. This is called cross-examination.

Once you and your legal representative have asked all your questions, the case presenter may ask our witnesses further questions.

The committee may then ask our witnesses some questions.

Once our witnesses have given evidence, the chair will formally release them as witnesses. Some witnesses may choose to stay for the rest of the hearing. If they do, they will be asked to sit in the seating area for observers.

After all of our witnesses have given their evidence, the chair will ask you or your legal representative to open your case.

At this stage you or your legal representative may call your witnesses to give evidence under oath according to their religious belief, or an affirmation (a solemn declaration) if the witness does not want to take an oath. You or your legal representative will need to ask your witnesses questions first. Our case presenter will then be given the opportunity to ask your witnesses questions. The committee may also have questions for your witnesses.

You may also give evidence under oath (or affirmation). If you give evidence, the case presenter and the committee can ask you questions.

Closing Statements

Once you and, if it applies, your witnesses, have given your evidence and are released as witnesses, both parties will be invited to make closing statements about the case. The case presenter will make their closing statement first, followed by you or your legal representative.

The committee will receive legal advice from the legal assessor before it retires to make a decision on the facts of the case.

FINDINGS OF THE PROFESSIONAL CONDUCT COMMITTEE

The committee goes into private session to make its decision, which will be in three stages.

The legal assessor will be present in the room and may help the committee to draft its decision. However, the legal assessor plays no role in the decision-making process.

Stage 1

If there is any dispute about some or all of the facts alleged, the committee will need to first consider whether it finds those facts proved. We have to prove the case against you. The standard of proof which applies is called the 'balance of probabilities'. This means that the committee will only find the alleged fact 'proved' if it considers that it is more likely than not that it is correct.

If the committee does not find any of the facts proved it will ask both parties to return to the hearing room, where it will formally announce the decision and conclude the case.

If the committee finds some or all of the facts proved, it will ask both parties to return to the hearing room so that the chair can formally announce the decision and reasons. The hearing will then move on to stage 2.

Stage 2

Once the committee has announced its findings, the case presenter and you or your legal representative will be invited to make submissions on unacceptable professional conduct.

The legal assessor may give the committee legal advice and the committee will then retire in private to consider whether the facts found proved amount to unacceptable professional conduct.

After the committee has reached a decision, both parties will be invited into the hearing room and the chair will announce the committee's decision on unacceptable professional conduct.

Stage 3

If a finding of unacceptable professional conduct is made, the committee will impose one of the following sanctions:

- an admonishment
- a conditions of practice order, which will allow you to continue to work in a limited way
- a suspension order for a period of time
- removal of your name from the Register.

When deciding what sanction to impose, the Professional Conduct Committee will take account of guidance documents¹.

PUBLISHING OUR FINDINGS

Our **Fitness to Practise Publication Policy** sets out how, and for how long, we publish information relating to the decisions of our fitness-to-practise committees.

We will publish a finding of unacceptable professional conduct made by the Professional Conduct Committee (at a hearing or under the Rule 8 Procedure) on our website and in the annual **Fitness to Practise Report**.

We will publish findings made by the Health Committee, but we will not publish information relating to your health or condition.

¹ These include the Hearings and Sanctions Guidance. You can find this guidance document on our website at osteopathy.org.uk/hearings-and-sanctions-guidance

TELLING YOU OUTCOMES

We have a policy on **Notification of Fitness to Practise Investigations and Outcomes**. This is available on our website and explains the information we will provide to third parties about an investigation and its outcomes.

Examples of third parties include your employer, and anyone you may have a contract or other arrangement with to provide services, and any other healthcare regulator that you may be registered with.

APPEALS

You have a right to appeal against a decision made by the Professional Conduct Committee and the Health Committee. If you want to appeal, you should get your own independent legal advice.

The Professional Standards Authority can also appeal against decisions made by the Professional Conduct Committee.

We hope you find this guidance helpful. If you have any questions, please contact our Regulation Team.

Email: regulation@osteopathy.org.uk

Phone: 020 7357 6655 (x224)



General
Osteopathic
Council

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tel: 020 7357 6655 • email: info@osteopathy.org.uk • www.osteopathy.org.uk



Directions

By Train: The nearest mainline station is London Bridge, from where it is a 10–15 minute walk.

By Tube (London Underground): The nearest Tube stations are London Bridge (Jubilee Line and Northern Line, Bank branch), which is a 10–15 minute walk away, and Tower Hill (District and Circle lines), from where it is a 15 minute walk.

By Bus: Bus numbers 188, 78, 42, 381 and RV1 all stop near to Osteopathy House.

By Car: We do have parking facilities, but places are limited. There are also public car parks close by.



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