

# Remote Hearings Protocol

## Introduction

1. The overarching objective of fitness to practise proceedings, and hearings before the Professional Conduct Committee or Health Committee, is the protection of the public. We uphold this overarching objective by investigating and adjudicating on concerns and imposing a sanction within a reasonable timeframe.
2. Delays in proceedings can adversely affect our overarching objective and can have a detrimental effect on all parties to a complaint. It is unfair and can be distressing to registrants, complainants and witnesses if long delays occur.
3. The current pandemic has prevented timely 'physical hearings' (where all parties to the hearing are present in person) taking place. A pragmatic and fair alternative to physical hearings should be used where appropriate. As such, 'remote hearings' (where all of the hearing takes place via an online video conferencing platform) or 'hybrid hearings' (where some of the parties attend in person while others attend by video conference) ensure that all those involved in a fitness to practise hearing can do so safely.

## Overarching considerations

4. Our overarching objective is set out in the Health and Social Care (Safety and Quality) Act 2015:
  - to protect the health, safety and well-being of the public;
  - to maintain public confidence in the profession concerned; and
  - to maintain proper professional standards and conduct for members of that profession.
5. When considering if a hearing should proceed remotely or in a hybrid format, we consider several factors:
  - Can fairness and justice be achieved?
  - Are there sufficient safeguards to ensure the integrity of the process and inappropriate breaches of privacy can be avoided?
  - Will the process protect the safety and wellbeing of our people, partners (decision makers, Legal Assessors or the individual taking an official note of the hearing), and the parties to the hearing (registrant, legal representatives and any witnesses), in accordance with any Government guidance in place at the time?
  - Can any Equality Act 2010 considerations be adequately provided for those with protected characteristics?

6. This guidance sets out what factors will be considered when deciding what format substantive hearings before the GCC's Professional Conduct Committee or Health Committee ('the Committee') will take – remote, hybrid or physical. Interim Suspension Hearings will be listed remotely by default due to the emergency nature of those hearings. Information noted at paragraph 13 below, bar the exception of 13.7 apply equally to interim suspension hearings. The guidance also sets out other relevant information about the hearing process.
7. Guidance on how to use the conferencing platform is provided to hearing parties directly.

## Our approach

8. The fitness to practise team will consider, on a case-by-case basis, whether a case is suitable to be heard remotely, as a hybrid or physically. They will consult the parties to the case, their representatives and any witnesses to determine what type of hearing is appropriate.
9. This may include, but is not limited to, the following factors:
  - 9.1. **Whether the registrant and other participants have sufficient access to and understanding of technology, and access to an appropriate environment to enable them to take part effectively in a remote hearing, including access to any advice:** depending on the circumstances, the GCC may be able to make provision for registrants or witnesses to attend our offices or those of our legal advisors to participate in a hearing or attend by other means such as audio.
  - 9.2. **Whether there is a reason to believe that there are risks of a breach of privacy that the GCC cannot overcome.**
  - 9.3. **Any features of the case which make it particularly difficult for it to be held remotely:** for example, difficulties in presenting evidence which cannot be accommodated at a remote hearing.
  - 9.4. **Evidence suggesting that the integrity or fairness of the hearing may be compromised by a remote hearing.**
  - 9.5. **The impact of any disabilities or other vulnerability of any of the participants.**
  - 9.6. **The public interest in the expeditious disposal of cases:** pausing hearings may lead to backlogs of cases and may delay necessary action to protect the

public or restore registrants to practice and may impact on the wellbeing of those taking part.

**9.7. The health of participants and, in particular, whether they fall within the groups likely to be at high risk of serious adverse effects if they contract Covid-19:** this may dictate the necessity of a remote hearing. The pandemic is not over and social distancing and other restrictions are likely to continue for some time which will make it difficult for regulators to hold physical hearings.

**9.8. The ability to ensure that the hearing complies with Government guidance on the safety of all involved:** if a full or local lockdown is in effect then a remote hearing may be the most appropriate option.

**9.9. Any other matters that may affect the smooth running of the hearing.**

10. Apart from 9.1, we do not consider that any single factor above has, of itself, any greater weight than the others. Different conditions will apply in individual cases and will need to be considered accordingly.

11. Where there is disagreement between parties about the most appropriate format for the hearing, the final decision will be taken by the Committee at a preliminary hearing. Parties will have the opportunity to raise concerns and present evidence for consideration.

12. Parties' circumstances can change, as can Government guidance, so any decision taken will be kept under review. Parties should notify the Committee Coordinator at the earliest opportunity of any relevant changes to their circumstances (with the exception of changes to Government guidance).

## The remote hearing

13. The below information sets out how remote hearings are organised, what happens during the hearing and other relevant information. These procedures are intended for guidance only and do not constitute a direction to a particular Committee to take a particular course of action when hearing cases.

### 13.1. Technology

Our preferred platform for remote hearings at the GCC is Microsoft Teams ('Teams'). Telephone conferencing facilities are also available via this platform and can be used where a participant does not have access to a device with a camera.

### 13.2. Timings

Remote hearings will usually be scheduled from 9:30am to 4:30pm, providing the Committee and parties the flexibility to manage the hearing day according to individual circumstances.

Occasionally, these times may be adjusted due to the needs of any party at the direction of the Chair. The Committee Chair will ensure there are sufficient breaks and that comfort and wellbeing is monitored, particularly in relation to those giving evidence.

### 13.3. **Communication**

The Committee Chair, as part of their role will ensure that parties are adequately introduced and everyone in the 'virtual' room has been identified.

A remote hearing is no less formal than a physical hearing and parties should ensure that communication, presentation and appearance is just as it would be in the physical hearing environment. Parties to the hearing are expected to always have their cameras on but should mute their microphone whilst not speaking to limit background noise.

Parties should be alert to not talking over each other and should speak when invited to do so by the Committee.

Where a represented registrant or GCC advocate need to take instructions from instructing solicitors, the Committee Chair should allow appropriate breaks to facilitate this.

Test calls will be arranged with advocates (where they previously have not partaken in a GCC hearing), registrants and any other participant if needed to ensure they are familiar with Teams' functionality.

### 13.4. **Witnesses**

Test calls will be arranged with witnesses in advance of the hearing to ensure the hearing runs as smoothly as possible.

If the witness wishes to take a religious oath, they will need the relevant holy book physically with them. Otherwise, the witness will be asked to make an affirmation.

Witnesses will be provided with an electronic link to the waiting area for the main hearing room to allow them to join the hearing at the designated time. Access to the main hearing room will be controlled by the Committee Coordinator. A witness will not be permitted to observe the

hearing until after they have given their evidence. This is to ensure their evidence is not influenced or tainted.

All witnesses will be afforded the opportunity for regular breaks to enable them to give their best evidence. The Committee Chair will be responsible for ensuring adequate breaks are given.

If a witness requires any reasonable adjustments due to disability or other need which will support them to take part and give best evidence, they should contact the Committee Coordinator in advance.

### 13.5. **Documents and bundles**

Documents and bundles will be shared with the relevant parties electronically via secure methods prior to the hearing. It is advisable to always have these to hand during the hearing.

If documents need to be handed up on the day, they will need to be sent electronically to the Committee Coordinator, who will then circulate them securely to the Committee, Legal Assessor and any other relevant party.

### 13.6. **Screen share functionality**

Teams allows participants to share their screens. This can however lead to incorrect information being shared by accident or the right document being shared, but information contained on screen that could breach theirs or someone else's privacy.

Participants must only share their screen with the agreement of the Committee Chair and having taken care to mitigate any potential data security risks.

### 13.7. **Public access**

In accordance with Rule 9 of *The General Chiropractic Council (Professional Conduct Committee) Rules Order of Council 2000* (the 'Rules'), hearings in front of the Professional Conduct Committee take place in public session by default but the Committee may, where appropriate, choose to hear some or all of it in private session.

In accordance with Rule 9 of *The General Chiropractic Council (Health Committee) Rules Order of Council 2000*, hearings in front of the Health Committee take place in private session by default but the Committee may, where appropriate, choose to hear some or all of it in public session.

All hearings are listed on our website. If a member of the public wishes to attend, they can make a request to [adjudication@gcc-uk.org](mailto:adjudication@gcc-uk.org).

Observers will be sent an agreement form to confirm their agreement to several rules of admittance. **It is critical that there must be absolutely no recording of a hearing of any kind** – this includes recording audio, video, taking photos of the screen on a second device or taking screenshots. Observers must also confirm they will not share information on social media.

Once the agreement form has been returned, a link for the main hearing room will be shared with the member of the public. The link must not be shared with anyone else. Hearing parties will be notified of observers prior to the hearing commencing. The Committee Chair will also reiterate the rules of admittance at the opening of the hearing. Observers will be ejected from the remote hearing if they breach these rules.

Access to the main hearing room will be controlled by the Committee Coordinator. Anyone attempting to access the main hearing room who has not provided a sign agreement form will be ejected from the virtual lobby.

There may be times where certain information needs to be heard in private session. Any observers will be required to exit the remote hearing at that time but will be permitted to re-join once the hearing resumes in public session. Observers should have their camera and audio turned off unless requested to do otherwise by the Committee Chair.

Interim suspension hearings are held in public by default but the GCC routinely requests that these hearings are heard in private. Public access to these types of hearings is therefore usually restricted.

### 13.8. **Technical issues**

The Committee and the Committee Coordinator actively monitor if technical issues are occurring during the hearing. If any party experiences technical issues during the hearing, they must be raised with the Committee Chair as soon as possible. This includes poor connectivity issues that impede anyone's ability to hear or see proceedings. Proceedings should be halted until technical issues have been resolved or, as a last resort, an alternative way to proceed is identified.

This is to ensure that all parties have fair access to proceedings and vital information or evidence is not misheard or missed altogether.

If an observer is unable to hear or see proceedings, they should raise this with the Committee Coordinator as soon as possible to ensure public access to the hearing is maintained.

Despite thorough preparation prior to a hearing, sometimes technical issues arise on the day that cannot be avoided. This can slow or pause proceedings which can be disruptive so patience may on occasion be necessary.

The Committee Coordinator will provide parties and observers with email and telephone contact details in case of technical issues.

### 13.9. **Role of the Committee Coordinator**

The Committee Coordinator is responsible for the smooth running of the hearing. They will update parties and observers about start and finish times, when to return from breaks or private session so it is imperative that contact details are available to them.

They will also create the virtual meeting rooms and control access to them.

Outside of their duties on hearing days, the Committee Coordinator also facilitates the scheduling of the hearing, monitors case management direction deadlines, coordinates disclosure and paperwork and supports all parties with queries, technical support and provides support to witnesses.

The Committee Coordinator will also provide additional support to unrepresented registrants and vulnerable witnesses if required.

### 13.10. **Record of the hearing**

A formal record of the hearing will be taken by a stenographer, along with an audio recording. A verbatim written note of proceedings is then produced – this is called a transcript.

**No other party is permitted to record any part of the hearing.**

### 13.11. **Adjustments**

If any participant to the hearing requires any reasonable adjustments due to disability or other need which will support them taking part in the hearing, they should contact the Committee Coordinator who will be able to assist.

14. For further information or support, please contact the Committee Coordinator at [adjudication@gcc-uk.org](mailto:adjudication@gcc-uk.org).

**General Chiropractic Council**  
**March 2021**