Case management during hearings

Reference: CMT-9 Last Updated: 01/10/2026

It is important that our hearings are conducted in a way that maintains the public's confidence in us as a regulator.

How the panel manages the case

One of the roles of the panel is to manage the case, the people appearing before it, and to make sure the hearing runs smoothly. They do this by making a range of decisions throughout the hearing and giving directions to the parties, for example deciding when the hearing will be in session and what time people need to attend each day. This guidance discusses some of the decisions they might make.

The panel may also make the decision as to whether all, or part of the hearing should be held in public or private.

Members of the public, including the press, may attend the public parts of a hearing. The panel may need to maintain the anonymity of certain individuals, such as patients or people giving evidence who need this kind of support to effectively engage.

Sometimes people entitled to anonymity may prefer to be referred to by name, or a person may wish to refer to someone entitled to anonymity by name or their relationship to them (for example, saying "my sister"). The panel should facilitate people giving evidence to engage effectively with the hearing and consider whether directions are needed to avoid the identity of individuals entitled to anonymity from being revealed in public. Such directions may include:

- making an order[1] to prevent information that identifies an individual from being shared outside the hearing room;
- hearing a person's evidence in private; holding the hearing in private is usually only likely to be necessary in extreme cases such as where there is a serious risk of the identity of an individual being revealed when it shouldn't be.

In some cases, such directions may have previously been made prior to the hearing, for example at a preliminary meeting. In these situations, the directions are binding on the panel, unless the panel considers that:

- There has been a material change in circumstances since the directions were made; or
- applying the case management direction would not be in the interests of justice;[2]
- This is set out in more detail in the section on changing and withdrawing case management directions in our case management directions guidance.

What the panel does as it hears the evidence

The panel can ask people giving evidence questions in order to clarify their evidence and help decide whether the charges are proved.

If a new issue comes up after someone has finished giving their evidence, the panel should think very carefully about whether the individual needs to be called back to give further evidence, or whether the panel can explore the issue with those who remain in session, other people who haven't yet given evidence, or by considering the evidence they have already heard.

If the panel considers that we may need to carry out further investigation, it should consider carefully whether to adjourn the hearing to allow us to do this.

When making these decisions, the panel should always strike a balance between the nurse, midwife or nursing associate's right to a fair hearing and our overarching objective of protecting the public in a fair and proportionate manner.

Failure to comply with case management directions

Case management directions are put in place to ensure the hearing runs fairly and smoothly for everyone. If either the NMC or the professional fails to comply with a case management direction without good reason, this will be a matter for

he panel to consider either at the main hearing or at a preliminary meeting. The panel has the following options:

- If the direction related to the service or admissibility of evidence, refuse to admit the evidence. This would mean that neither side can rely on the evidence in the hearing or meeting;
- For any direction, the panel may draw an adverse inference from the failure to comply.[3]

Good reasons for failing to comply with case management directions could include (but are not limited to):

- The failure to comply was outside of the party's control, for example an employer or other regulatory agency not sharing information as anticipated;
- The professional unexpectedly being unavailable, for example due to illness or a significant family emergency;
- Compliance with the directions being unlawful, for example the directions unintentionally require the disclosure of Family Court information or evidence in a criminal trial.

f the party has informed the other party in good time that they may not be able to comply with the direction, but they are aking all reasonable steps to do so, this may count towards the panel considering that there was a good reason for heir non-compliance.

f a party has failed to comply with case management directions that they had been informed of, this will not necessarily e a reason to adjourn the hearing. Where possible the hearing should continue, provided this is procedurally fair.

Adverse inferences

The panel will only draw an adverse inference against either the professional or the NMC if it is procedurally fair for hem to do so. A panel's decision on whether to draw an adverse inference will depend on the circumstances of the case. The panel shouldn't draw an adverse inference based on the failure to comply with case management directions unless:

1. We've put forward sufficient evidence that the professional has been involved in misconduct or that their fitness to practise is impaired for some other reason.[4]
2. The NMC or the professional has been given an appropriate warning that an adverse inference may be drawn if they do not comply with a case management direction. The NMC or the professional must be given an opportunity to explain why it wouldn't be reasonable for them to comply with the case management direction.
3. There is no reasonable explanation for the failure to comply with the case management direction (for example, not giving evidence due to illness may be reasonable).
4. There are no other circumstances that would make it unfair to draw an adverse inference.

Matters to be considered before an adverse inference is drawn

Before an adverse inference is drawn, the panel must first consider:

- The impact of non-compliance with the direction (has it impeded the panel's ability to deal with the case?)
- The reason (if any) given for the failure
- In all of the circumstances, what conclusion should the panel reach about the motivation behind the failure?

What types of adverse inference may be drawn?

Adverse inferences can come in many forms, and will depend on the case management direction that has not been complied with. The panel should take legal advice before deciding whether to draw an adverse inference and what form hat may take. Some examples of adverse inferences could include:

- Giving limited weight to evidence that is submitted late, or not in the form required by the case management direction;
- Drawing inferences as to the veracity or availability of evidence if it is not submitted in the time and form required;
- Giving limited weight to the reasons for a request (such as an adjournment) if the reasons are not submitted in compliance with the case management direction.

Managing behaviour in hearings

Part of the panel's role in managing the people appearing before it includes managing behaviour in hearings.

t's important that all parties to the hearing are treated fairly, with respect and dignity. Some people can find hearings challenging or stressful. Part of the panel's role is to make sure people in the hearing behave appropriately, and ensure

he hearing runs in such a way that allows all parties to engage effectively.

Where a person is behaving inappropriately - for example, being rude or hostile towards another person - the Chair of he panel should intervene and remind the person of the standards of behaviour expected during a hearing (see Our expectations of everyone involved in a hearing). We expect this will be sufficient in most cases to manage proceedings.

Where a person continues to behave inappropriately, the Chair should remind the person again of the standards of behaviour expected during a hearing.

Where a person continues to behave inappropriately despite repeated reminders, the Chair should warn the person hat disruptive behaviour may result in their exclusion from all or part of the hearing.

Where the Chair has repeatedly reminded and warned a person about their behaviour, and they continue to behave in an inappropriate manner, the panel may exercise its power to exclude the person from all or part of the hearing.[5]

n cases of particularly serious poor behaviour - for example violent conduct, threatening behaviour and discriminatory or overtly offensive language – the panel may exclude a person from the hearing with immediate effect without eminders or a warning. This applies equally whether the behaviour has occurred, or if the panel considers such behaviour is likely to occur.

Our expectation is that the panel will intervene where a participant behaves inappropriately. In general, parties should ecognise that the management of behaviour in a hearing is a matter for the panel. If, however, a party to proceedings considers that a participant is behaving inappropriately they may bring this to the panel's attention and invite it to ntervene. The decision to intervene and to what extent will be a matter for the panel.

1. Under Rule 22(2) of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 the panel can, upon the application of the party calling a witness, direct that any details which identify a witness should not be revealed in public.

2. Rule 17A(4) Fitness to Practise Rules 2004

3. Rule 31(8). These options are only open to a Practice Committee, and not a Chair acting without a panel.

4. The legal term for this is that a 'prima facie' case to answer has been established

5. Rule 20(5) Fitness to Practise Rules 2004