

Documents panels use when deciding cases

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Overview

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In order to help panels of the Investigating and Fitness to Practise Committees consider allegations and make fair decisions, we provide them with the information we've obtained throughout the investigation in a group of documents called the document bundle.

This helps the smooth running of the decision-making process at a hearing or meeting.

In order to comply with our duties under information law we sometimes need to remove information from documents which are going before a panel. We do this in line with our [information handling guidance](#).

The 'fair and relevant' test

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Once a case has been referred to the Committee, one of our lawyers will review the evidence and decide which documents should form the document bundle.

The test as to whether information should be used in a hearing is that it is 'fair and relevant'.¹

This means that the hearing bundle should only contain material that is relevant to the charges being considered by the Committee.

At the hearing, if there is a disagreement as to whether evidence can be admitted, the panel will be provided with independent advice from the legal assessor. However the panel will make the final decision.

Witness statements

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Where we have obtained witness statements, and we want to use those statements in evidence, we will provide the panel with a copy of the witness statement. If the case is at a hearing, we will do this when the witness gives their evidence.

We will also provide witness statements to the panel as evidence, if it has been agreed with the nurse or midwife. If the case is being decided at a meeting, we will provide the panel with all the witness statements in advance.

The nurse or midwife's documents and evidence

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The document bundle we give the panel contains the documents we are relying on to prove the allegations. It does not usually contain the nurse or midwife's evidence or documents.

The nurse or midwife, or their representative, will often bring their own bundle of documents to rely on for their defence.

We leave this to them because we do not always know what documents the nurse or midwife might choose to use for their final hearing. They may have sent in information at earlier stages which they no longer wish to rely on, and it's unfair for us to make that decision for them.

However, as set out in the [notice of hearing](#), if the nurse or midwife has sent in admissions or responses to the allegations, we'll give these to the panel.

The panel can then consider whether the nurse or midwife admits or denies any allegations, and may find allegations proven on the basis of the admissions.

Documents not originally in the hearing bundle

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Sometimes, documents that are not originally included in the hearing bundle become relevant during the course of the hearing. This could be as a result of evidence given by a witness or the nurse or midwife. In these circumstances we try to provide the document to the panel.

If the nurse or midwife, or their representative, does not agree on the addition of the document, the panel, after hearing the advice of the legal assessor, will consider whether it is fair and relevant for it to be considered as evidence.

Informing the nurse or midwife

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Before the case begins we'll inform the nurse or midwife, or their representative, what we propose to provide to the panel as the document bundle.

We do this either by sending a copy of the bundle, or an index, listing the documents. The nurse or midwife can use the index because we'll already have given them copies of the documents earlier on in our investigation.

This allows the nurse or midwife the opportunity to object to any documents or request further material be added to the bundle with the result being the content of the hearing bundle may change through the preparation of the case.

Where a nurse or midwife objects to us using a document, and we can't agree the issue between us, we won't include the document in the bundle we give to the panel in advance of them deciding the case.

Instead, we will have to apply to the panel to include the document as part of our evidence. If the panel agrees that the evidence is admissible and it accepts the document, we'll provide it to the panel separately.

Sending documents to the panel in advance

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In some circumstances we may also send the document bundle to the panel in advance of the case.

We do this if the panel is deciding the case at a meeting.

If we do this for a substantive hearing, we will inform the nurse or midwife that we intend to give the bundle to the panel in advance of the hearing.

If the panel does not see the document bundle in advance, the panel will be provided with it during the course of the hearing. Our case presenter, and the nurse or midwife or their representative, will guide the panel as to the best way to go through the bundle as they hear the evidence in the case. The legal assessor can also give advice about this.

1 Rule 31 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 ("the Rules")