Unrepresented registrants

Guidance for unrepresented registrants at NMC hearings
Introduction
This leaflet is for nurses, midwives and nursing associates who attend hearings without representation. It explains the hearing process and some of the things you should expect to happen.

Who will be at the hearing?

You
We recommend you attend your hearing so you can put forward your position on the case. If you don’t intend to attend your hearing you should make your case in writing so it can be considered fully in your absence. This should be sent to your case officer at least two days before the hearing to give us time to make sufficient copies so that the Panel can consider it on the day of the hearing. If delivered on the day of the hearing this may slow down the progress of the case.

Panel members
This includes the Chair, who is responsible for the proceedings, and two other members. One will be on the register, and if it is your final hearing, that person will be on the same part of the register as you.

Legal assessor
Advises the panel on the law. The legal assessor will speak with you on the morning of the hearing to explain procedures. They are not involved in making the decision.

NMC case presenter
They put forward the case on behalf of the NMC and call witnesses.

Panel secretary
Will liaise with you on the morning of the hearing. The panel secretary assists the panel with the drafting of their decision, but is not involved in making the decision.

Observers and journalists
May attend the hearing, but not if the matter is health related.

Witnesses
The NMC may decide to call witnesses in support of our case. If you decide to bring witnesses then you should let your case officer know in advance of the hearing.

Other NMC staff
They ensure the smooth running of the hearing.

What will the hearing room look like?
What should you bring to the hearing?

Questions

Decide the questions you want to ask NMC witnesses about their statements. If you disagree with anything, explain why you disagree and ask them to comment. You may also want to raise any issues that support your case but which are not in their statements. It could be detrimental to your case if you raise fresh matters afterwards that were not put to the witnesses during their evidence.

Current practice

If you have any written submissions you wish to make then you should provide them ahead of the hearing. Submissions may take the form of testimonials, documentary evidence of professional development/attempts to improve your practice, or up-to-date professional references. If you are unable to provide submissions ahead of the hearing then please bring them on the day so that the panel have access to them during their decision making.

Copies

Many delays occur at hearings because individuals don’t bring enough copies of the material they want to give the panel. We recommend you bring nine copies of your documents, so these can be handed out to the various people in the room. We can’t always guarantee we can make copies of your documents, particularly if we are at an external venue, such as a hotel.

Stages of a hearing

Reading the charges

The charge is read out. The panel will ask if you have any objections and will listen to the legal assessor before deciding whether to allow changes to the charge. Once the charge is read, the Chair will ask if you admit or deny the charge.

All parties to attend the hearing

Facts**

The NMC case presenter will set out the factual background and call witnesses to give evidence in support of the facts alleged. You can question any witness or challenge any evidence presented. The panel will retire to consider whether the facts are proved.

All parties to attend the hearing

Decision on facts

If facts are not proved, the hearing will not proceed to the next stage. Finding that facts are proved doesn’t necessarily mean you are currently impaired.

Panel only*

Sanction**

At this stage the panel may hear evidence about your history and personal circumstances.

All parties to attend the hearing

Decision on current impairment

This is where the panel can consider what has happened since the event. It is important to bring any evidence you have such as testimonials, up-to-date professional references or courses you have attended or professional development.

Panel only*

Decision on sanction

If the panel decide you are currently impaired, they will choose from a range of sanctions.

Panel only*

Current impairment**

If some or any of the facts are proved, the panel will then consider those facts to decide whether your current fitness to practise is impaired.

All parties to attend the hearing

* When the panel retire to consider a decision on facts, current impairment or a sanction, the legal assessor and panel secretary will remain with them. All other parties in the hearing will be asked to leave to allow them to make a decision. Neither the panel secretary or the legal assessor are involved in any decision making.

** You have the right to give oral evidence under oath or affirmation at facts, impairment and sanction, then subsequent questions may be put to you NMC case presenter and members of the Panel.
Interim orders

If the panel decide to impose a conditions of practice order, a suspension order or a striking-off order, they will need to consider whether to impose an interim order. This is because the main sanction won’t take effect before 28 days. If in those 28 days you decide to exercise your right of appeal, the main sanction won’t take effect until the appeal process is determined.

What to do during the hearing

If you do not agree with the evidence of a witness called by the NMC, you must question them. You must ask them questions, rather than make statements. Try to keep your questions short, simple and easy to understand.

If the facts are proved, and the panel find me currently impaired, what will they consider?

They will consider:

- evidence of your insight and understanding of the problem, and your attempts to address it. This may include early admission of the facts, apologies to the complainant or the person(s) affected, any efforts to prevent reoccurrence or any efforts to correct the difficulties
- evidence that you follow the principles of good practice. This evidence could show that you are keeping up to date with your area of practice, or show previous good character or history
- personal mitigation, such as periods of stress or illness, personal and financial hardship, level of experience at the time in question or level of support in the work place, and/or
- any written documentation you provide, such as testimonials or references.

What to consider before you attend a consensual panel determination (CPD) hearing

In some cases we can seek to agree facts and a provisional sanction with you.

If we are able to reach agreement, we will put it before a panel for consideration. To be eligible for this you must admit all the charges against you and that your fitness to practise is impaired, and provisionally agree a sanction with us.

The agreement will then be put before a Conduct and Competence or Health Committee panel, who will decide whether to agree or reject it. The panel can also vary the provisional agreement with the consent of both parties. If rejected, the case will be put before a fresh panel, which will conduct a full hearing to decide an appropriate outcome.

If we can agree a sanction with you, it reduces the need for witnesses to attend hearings and reduces the length of the hearings. Generally, a hearing can be reduced to one day if a sanction is agreed.

Who should I contact if I have any questions?

Please contact your case officer whose details are on correspondence we have sent you.