



Teaching
Regulation
Agency

Teacher misconduct: information for witnesses

**A guide to giving evidence at a
professional conduct panel hearing**

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1. Introduction

If you are called to give evidence at a professional conduct hearing by either the Teaching Regulation Agency (TRA) or a teacher facing allegations of serious misconduct, this booklet lets you know what to expect before, during and after the hearing.

Why am I being called as a witness?

TRA is responsible for regulating the teaching profession. This means that teachers facing allegations of serious misconduct are investigated by TRA. This may lead to a hearing in which a panel decide if the teacher is innocent or guilty of professional misconduct and the teacher has the opportunity to defend themselves. We need witnesses to attend a hearing as they are able to provide relevant information. Witnesses can be called by the TRA and by the teacher facing allegations. This means that the teacher can have a fair hearing.

Why is it important to be a witness?

The information provided by witnesses (their evidence) will assist the panel in deciding whether the allegations are proven, and whether a teacher should be allowed to teach again. This protects pupils, schools and teachers. It also upholds the high standards of behaviour expected of the teaching profession. Giving evidence is important as a teacher could be prohibited (banned) from teaching for life if they are found guilty of serious misconduct.

What if I have already given evidence?

You may already have been asked questions as part of another process and may already have given evidence at a school disciplinary hearing or an employment tribunal. However, the TRA panel needs to hear from witnesses directly so that they can make their own decision about what has occurred. It also means that the teacher has the opportunity to challenge the allegations against them. This is why a written statement on its own is not always sufficient as the parties at a hearing will want to ask witnesses questions to get to the truth.

If someone does not want to attend as a witness, the TRA will try to respect their wishes, but if their evidence is very important to the case, then they may be summonsed to appear by the panel. This means that a court order is made, requiring a witness to attend.

What is a hearing like?

Before a hearing, a panel of three independent people will read the case papers. At least one member of the panel will be a teacher, and at least one is a lay panellist (someone

who has never been a teacher). The third panel member may be a person who has taught previously, but does not currently meet the 'teacher panellist' criteria and will be referred to as a 'former teacher panellist'. During the hearing, the panel will listen to evidence and ask the teacher and witnesses questions, and then decide whether a teacher is innocent or guilty of serious misconduct.

The evidence on NCTL's side is presented by a lawyer referred to as a presenting officer. The teacher may also have a representative or they may represent their own case. However, the teacher does not have to attend the hearing – it is their choice.

The panel is assisted by an independent legal advisor who gives them advice on procedures and points of law – the legal advisor does not have a decision making role. One of the three panellists will 'chair' the panel and they will be in charge of managing the hearing. TRA staff are also on hand to support the smooth running of the hearing and to answer any questions you may have.

What is the purpose of a hearing?

A hearing allows the panel to investigate the evidence so that they can decide whether the facts against the teacher have been proved. There are three categories of misconduct:

- unacceptable professional conduct
- conduct that may bring the profession into disrepute
- conviction, at any time, of a relevant offence

A teacher may be accused of any or all of these categories. If the panel decides that a teacher is guilty of any of these categories of misconduct, it must make a recommendation to the Secretary of State for Education about whether the teacher should be prohibited (banned) from being a teacher. A senior member of staff from the TRA then makes the final decision on behalf of the Secretary of State.

A prohibition order applies for life and means that someone cannot undertake work as a teacher in any school in England (including academies, free schools and independent schools). In some cases, the decision maker may decide that the teacher could apply to be allowed to work as a teacher again after a certain amount of time has passed. To do this, they would need to prove to another panel they were suitable to be a teacher.

Because a teacher's career is at stake, it is very important that witnesses attend to give evidence and that they do not discuss their evidence with other people (especially other witnesses). This helps to make the process fair.

2. Before a hearing

Witnesses called by the TRA will receive a letter saying which teacher the hearing is about and explaining which presenting officer will be dealing with the case on behalf of the TRA.

The presenting officer will then contact each TRA witness to tell them about the allegations against the teacher. They will arrange a time to speak to each witness to ask them questions and this will usually be done by telephone. If the witness is under 18 then the presenting officer will contact their parents and arrange to have a meeting in

person. After speaking to the witness, the presenting officer will prepare a written statement using the witness's own words, saying what they saw or know about the allegations. They will then send this statement to the witness for them to check, agree, sign and date, and add to or change if necessary.

Similarly, a teacher witness will be contacted by the teacher or their representative and will be asked to prepare, sign and date a written statement about what they saw or know about the allegations.

Witnesses will only be asked to talk about things which are relevant to the allegations the TRA has evidence to support. If a witness is not sure whether something should be included in their statement, they should talk to the presenting officer or teacher's representative about this.

The presenting officer and the teacher or their representative will also ask their witnesses about their availability to attend a hearing. It is very important that witnesses make every effort to be available for any hearing dates provided. If, at any point, a witness thinks they may not be able to attend on a given date, they must let the person who asked them to attend know straightaway.

Vulnerable witnesses

Giving evidence can be a difficult experience and TRA is committed to ensuring that being a witness does not have a negative impact on someone's wellbeing. The TRA treats all children under the age of 18 at the start of a hearing as 'vulnerable witnesses'. This means that special measures may be considered to support them in giving their best evidence. This may include being able to give evidence via a video link or having the teacher seated behind a screen while evidence is being given.

There are other reasons why the TRA treats someone as a vulnerable witness and this may include any witness:

- where the allegation against the teacher is of a sexual nature and the witness was the alleged victim
- with a mental disorder
- who is significantly impaired in relation to intelligence and social functioning

- with physical disabilities who requires assistance to give evidence
- who complains of intimidation

Special measures considered necessary to safeguard the interests of a vulnerable witness may include:

- the use of a video link
- the use of pre-recorded evidence
- the use of interpreters (including signers and translators)
- the use of an intermediary (an adult who helps explain questions to the witness)
- the hearing of evidence by the panel in private
- the attendance of a witness supporter

The teacher is not allowed to question a child witness. Also, where any part of the allegation is sexual in nature and the alleged victim is giving evidence, the teacher is not allowed to question that witness. However, the teacher's representative is entitled to question all witnesses.

If you feel that you may be a vulnerable witness, or that you have any medical conditions or special requirements that may make it difficult to give evidence, please contact the presenting officer, the teacher's representative or TRA in advance, so that special measures to support you can be considered.

How are witnesses questioned?

The process is investigative rather than adversarial. This means that questioning by the panel, presenting officer, teacher and/or their representative should be courteous and non-intimidating, but it may be challenging. All parties are given a guide on NCTL's expectations of witness questioning at our proceedings. If at any point the panel feels that questioning is not in line with this guidance, they will intervene. The guidance can be found in the document *Information for teachers: A guide for teachers subject to teacher regulation disciplinary procedures*. All of our documents can be found online at:

www.gov.uk/nctl/teachermisconduct

Because it is only the panel who make the decision about whether the allegations are proven, witnesses should try to address all their answers to the panel by facing towards them in the hearing room.

3. At the hearing

Witnesses should arrive at the time stated on their witness letter or given to them by the teacher's representative – usually 9.30am. Most of our hearings are held at the Department for Education offices near Coventry city centre. The address and location map are at the back of this guide.

The reception desk staff will ask you to sign in and will issue you with a building pass. Witnesses must wear this pass at all times in the building. An TRA member of staff will then greet you and take you to a seating area.

There will unfortunately be some time spent waiting to be called to give evidence. We suggest that witnesses bring a book or some magazines or a device with headphones to help pass the time. There is a canteen that sells tea, coffee and light refreshments, and from 12 to 2pm they sell hot lunches.

When will I give evidence?

Throughout the day, the presenting officer or teacher's representative will try to keep you updated on when you are likely to be called to give evidence but the timing of giving evidence cannot be predicted precisely in advance. It is possible that you will be at the hearing for most of the day or even for more than one day – most hearings finish at 5pm on each day but can finish as late as 7pm. You may be asked to attend for two days just in case your turn to give evidence does not happen on the first day of the hearing.

Giving evidence

When you give evidence you will sit at a desk in the hearing room and there will be a jug of water and a glass on the desk. The room layout is shown on page 9. The chair of the panel will welcome you and ask you to state your name. You will be asked to confirm that you will tell the truth. This is done by reading an oath while holding a holy book or by reading out an affirmation.

Your written witness statement will be on the desk in front of you and you will be asked to confirm that it is true and it is your statement. You will then be asked questions about what you know by the presenting officer, the teacher's representative and the panel.

You may be asked to look at documents and to comment on them. If anything is unclear, it is important to let the panel know that you do not understand what you are being asked. They will be able to re-phrase the question or explain it more clearly.

When will I be able to leave the hearing?

When all the questions have been asked, the panel chair will thank you for coming and will say that you may leave. However, in some circumstances the panel may ask you to remain in the building as you may be recalled later in the hearing. In this situation, you

must leave the hearing room and you must not discuss your evidence or the case with anyone.

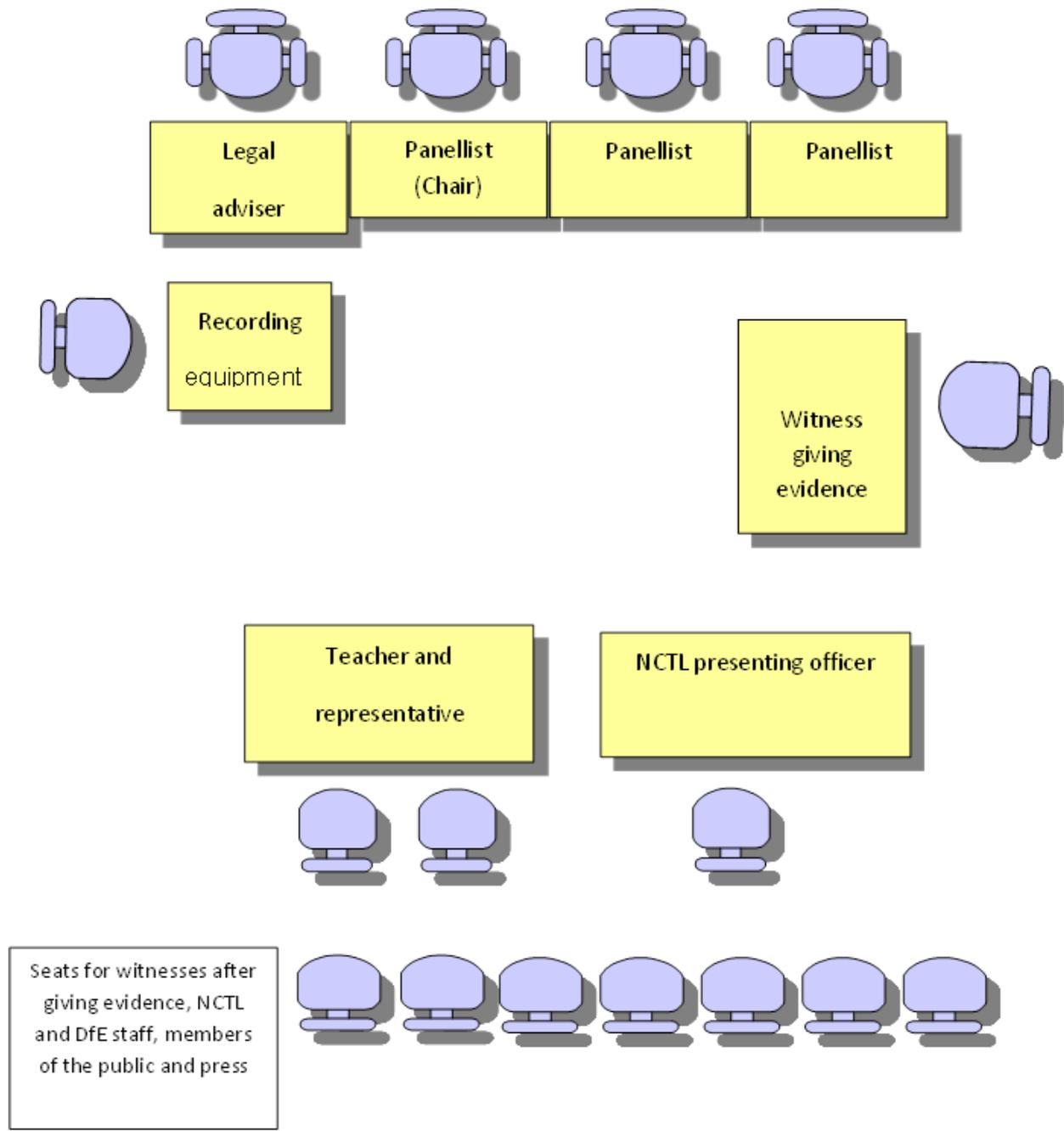
If the hearing is adjourned (put on hold) for any reason before you have finished giving your evidence, the panel will inform you when you should return. Until then, you will be regarded as still being on oath and you must not discuss the evidence you have given or any other aspect of the case with anyone else.

If you are released by the panel, you are free to leave. However, you may choose to remain in the hearing room to observe the rest of the hearing. There are seats at the back of the room for members of the public and the press, staff observers, and witnesses who have finished giving evidence.

It is important that you do not speak to any other witnesses after you have given evidence to ensure fairness and the independence of people's evidence. You may be asked to sit in another room, away from other witnesses who are waiting to give evidence. If the panel need to call you back to give further evidence, they will let you know this before you leave the room.

Layout of a hearing room

The illustration below shows how a hearing room is laid out.



4. After the hearing

After you have given evidence, we will ask you to complete a short witness questionnaire. This is to help us understand your experience of the hearings process. We collect this feedback so that we can review and improve our services. For example, it can help us to improve the timing of our letters or to improve the clarity of our communications and guidance.

If you are an TRA witness, the presenting officer will contact you to let you know the outcome of the case. All findings of misconduct are made publically available on the GOV.UK website and you can read the decisions at <http://tinyurl.com/regulation-outcomes> within two weeks of the conclusion of the hearing.

5. Expenses

To ensure that people are not financially disadvantaged by attending a hearing, the TRA will reimburse witnesses for reasonable travel and meal expenses. You are allowed to claim back up to £4.50 for lunch, and up to £16.75 for an evening meal if you have to stay overnight to attend the hearing. Both must be supported with a receipt and you are not allowed to claim for alcoholic drinks.

We will pay for standard class travel by public transport but if you need to travel by car, the mileage rate is 25 pence per mile. We will only reimburse the cost of a taxi journey if there is a reason you cannot use public transport so please contact the hearings team in advance on 0207 593 5393 if you think you will need to use a taxi.

We can also organise and pay for overnight accommodation if you live too far from the hearing location to travel there on the day of the hearing. We may also be able to make a payment if you have lost earnings because you are attending a hearing. If you are a teacher, your school can claim from TRA the cost of a supply teacher to cover your absence up to a maximum of £250 per day.

To claim expenses, please complete and download the expenses form from the GOV.UK website and send it by post to the TRA with all of your receipts. If you think you may need to claim non-standard expenses such as an overnight stay, loss of earnings, taxi fare or teacher supply cover, please contact the presenting officer or the TRA to discuss in advance.

www.gov.uk/nctl/teachermisconduct

If you have any questions or concerns that are not covered in this booklet, please contact the NCTL on 0207 593 5393 or email teacher.misconduct@education.gsi.gov.uk.

6. Location of TRA hearings

Teacher regulation hearings are usually held at TRA's offices in Coventry:

Teaching Regulation Agency
Ground Floor, South
Cheylesmore House
5 Quinton Road
Coventry
CV1 2WT

A map and directions to the building will be available soon.



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