



Teaching
Regulation
Agency

Teacher misconduct: information for observers

**A guide for members of the public and
media observing disciplinary hearings**

Updated September 2018

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Summary

This guide aims to inform members of the public of the procedures and expected behaviour when attending a hearing of teacher misconduct. For full details of the teacher regulation process, please refer to the GOV.UK website at:

<https://www.gov.uk/government/collections/teacher-misconduct>

For the purposes of this guide, references to “teachers” should be assumed to include “instructors” and interpreted as a person engaged to carry out teaching work, as defined by The Teachers’ Disciplinary (England) Regulations 2012.

This guide is provided for information purposes only. It is not intended to be a statement or interpretation of any law or procedural rule or a substitute for where it is appropriate to obtain independent legal advice.

Introduction

The Teaching Regulation Agency (TRA), an executive agency of the Department for Education (DfE), operates the process of regulation of the teaching profession on behalf of the Secretary of State.

The TRA will only become involved in the most serious cases of teacher misconduct, in order to make a decision about whether the teacher should be prohibited from teaching. Less serious cases of misconduct, and all cases of incompetence, should be dealt with locally.

Where an allegation against a teacher is referred to the TRA, the TRA will consider whether the teacher:

- may be guilty of unacceptable professional conduct;
- may be guilty of conduct that may bring the profession into disrepute; or
- may have been convicted, at any time, of a relevant offence.

If the TRA decides that one or more of these applies, and that a prohibition order may be appropriate, it will begin an investigation. Further information about the system of teacher regulation can be found in the following publications: ‘Teacher misconduct – the prohibition of teachers’ and ‘Disciplinary procedures for the regulation of the teaching profession’ available online at: <https://www.gov.uk/government/collections/teacher-misconduct>

If the investigation suggests that there is a case for the teacher to answer, the TRA will refer the case to a professional conduct panel. In certain circumstances, where the teacher agrees the facts of the case, the case may be considered without a hearing. Otherwise, a panel hearing will be convened. An outline running order for hearings can be found in Appendix 2.

Induction appeal hearing

The TRA also holds induction appeal hearings for newly qualified teachers (NQT) who are appealing against the decision of their employer to fail or extend their induction period.

Accordingly, most induction appeal hearings are open to members of the public and press. A notice detailing the time, date, venue and parties involved is posted on the GOV.UK website approximately one week in advance of the hearing.

Induction hearings are normally held in public, unless the panel determines that it is fair and reasonable for the hearing, or any part of it, to be held in private. This will be decided at the start of the hearing.

The panel may exclude the public and press from an induction hearing or part of a hearing where:

- it believes that a public hearing may adversely affect the fairness of the proceedings;
- it is necessary to protect children's interests; or
- either party requests that the hearing be in private and the panel is satisfied that this is not contrary to the public interest.

Both parties can request a private hearing, or that parts of the induction hearing be in private, but must provide reasons for the panel's consideration specifying why the hearing, or any part of it, should be held in private. This can be done in advance of, or on the day of, the hearing.

Further information about the induction appeals procedure is available online at: <https://www.gov.uk/guidance/newly-qualified-teacher-nqt-induction-appeals>

The professional conduct panel

A panel will consist of at least three members, all of whom will have been recruited through a public appointments process. At least one of the panel members will be a teacher or someone who has been a teacher in the past five years. At least one member will be a lay person, not from the teaching profession. 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'. The TRA will appoint one panel member to act as the chair.

The TRA will make a legal adviser available to any panel constituted under these Disciplinary Procedures. The legal adviser cannot be a member of Department for Education staff and will take no part in the decision making process.

The legal adviser's role is to advise the panel on the Law, practice and procedure. They may ask questions of witnesses and other parties in order to clarify the evidence.

What is a hearing?

A hearing aims to investigate the evidence in order that the panel can decide:

- whether the facts have been proved, and if so
- whether there has been 'unacceptable professional conduct', 'conduct that may bring the profession into disrepute' or 'conviction, at any time, of a relevant offence', and if so
- whether to recommend to the Secretary of State that a prohibition order is appropriate.

The TRA will arrange for a presenting officer (a lawyer) to put forward the case against the teacher to the hearing.

Hearings are normally held in public, although there are circumstances where it may take place in private, e.g. to protect the interests of children or vulnerable witnesses. If the hearing is in public, members of the press may be present. There may also be observers, e.g. officials from the TRA.

Notice of hearings will be published on the GOV.UK website approximately one week in advance.

As a matter of general approach, professional conduct panel hearings are held in an investigative rather than an unduly adversarial manner.

What is a prohibition order?

A prohibition order imposed by the Secretary of State means that a person concerned is not allowed to undertake teaching work unsupervised in schools or other settings as set out in regulations (The Teachers' Disciplinary (England) Regulations 2012). It does not relate to non-teaching work.

A prohibition order is likely to be appropriate when a teacher's behaviour has been fundamentally incompatible with being a teacher. The primary purpose of a prohibition order is to protect pupils and to maintain public confidence in the teaching profession.

A prohibition order is a lifetime ban, though in some circumstances the teacher may be able to have it reviewed after a specified period of time.

When and where will the hearing be held?

Hearings are usually held at the TRA's offices in Coventry.

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

Please notify the TRA on 020 7593 5393 if you have any special requirements relating to a disability which might hinder your access to, or participation as an observer in, the hearing. The TRA will make arrangements as appropriate. For example, there is an induction loop facility to assist those who are hearing impaired.

Information for observers

What time do I have to arrive at the hearing?

On the day of the hearing members of the public and the media will be requested to arrive at reception no later than 9.15 am. Hearings will normally begin at 9.30 a.m.

Arriving at and leaving the hearing

On arrival, please report to the reception desk, where you will be asked to sign in and then shown to a waiting room. The location of the hearing room will be explained to you; a plan showing how the hearing room is typically laid out is at Appendix 1. You do not have to stay for the duration of the hearing if you do not wish to do so.

There is no photography or recording whatsoever on DfE premises, you may not bring cameras or other recording equipment into the hearing suite and the TRA may refuse entry into the hearings area if you have any of these items.

The media will not be able to interview those taking part in a hearing on DfE premises. Any arrangement made to do so elsewhere is a matter for the parties involved.

Media and observers must at all times abide by the rulings and directions made by the chair of the professional conduct panel. For example, if the panel decides that part of the hearing should be held in private, this must be respected.

The hearing will often be stressful for the teacher and witnesses. Please avoid causing any additional distress by remaining silent throughout. If it is necessary for you to leave or enter the hearings room at any point during proceedings, please do so quietly and at an appropriate time.

We do not provide refreshments for observers, though there are amenities inside and close to the hearing venue where drinks, sandwiches and light meals can be bought. The chair of the panel will adjourn the hearing at convenient points in the proceedings for a lunch break and for other comfort breaks.

Every hearing will aim to conclude the day's proceedings by 5.00 pm., if possible, and by 5.30 pm at the latest.

Many hearings are concluded in one day unless stated otherwise. If it is anticipated that a hearing will last more than one day, the chair will make an announcement during the hearing. If, following a day's hearing, there is a need to reconvene, then another date will be decided and appropriate notice will be given to all the parties and published on the GOV.UK website.

Other issues for observers to note

- The proceedings will be recorded.
- At no time should members of the press and or public interject or engage in discussion during a hearing.
- The use of mobile telephones during the hearing is prohibited.
- Journalists are asked to remain in waiting area when the hearing is not in session.

Wi-Fi guest access is available for journalists upon request.

Outcome of the hearing

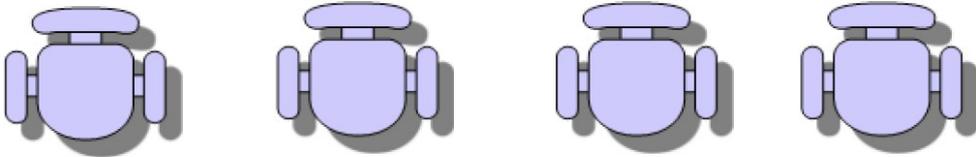
The outcome of a hearing will be posted on the GOV.UK website as soon as possible after a decision is made. Media will not be informed in any other way.

The TRA or the DfE Press Office will not elaborate on the detail of a hearing other than to reiterate what is posted on the website.

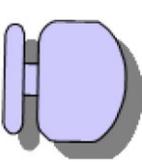
We will be happy to assist with any other enquiries or requirements for individuals attending hearings:

- Members of the public please contact the TRA on 020 7593 5393;
- Members of the media please contact DfE Press Office on 020 7783 8300.

Appendix 1: Layout of hearing room

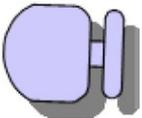


| | | | |
|------------------|-----------------|-----------------|-----------------|
| Legal Adviser | Panel Member | Panel Member | Panel Member |
|------------------|-----------------|-----------------|-----------------|



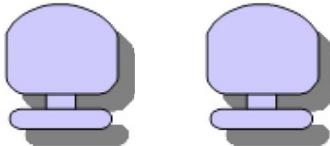
Recording
Equipment

Witness
giving
Evidence



Teacher and
Representative

Presenting Officer



Seating for witnesses after giving evidence, TRA staff members of the public & press

Appendix 2: Outline running order for hearings

1. Opening of the hearing by the chair and confirmation of attendees

The chair introduces themselves and the other members of the professional conduct panel hearing the case and explains the arrangements and procedure for the hearing.

The chair asks the teacher and/or their representative and the presenting officer to confirm their identity.

The chair then asks the parties to confirm the names and occupations of any witnesses they intend to call. The teacher and/or their representative is also asked to confirm whether the teacher will be giving evidence.

The chair asks the parties whether they think that witnesses should be present during the hearing prior to giving their evidence.

2. Public or private hearing

The professional conduct panel may decide, at any time, to deliberate or hold any part of the proceedings in private if there are reasonable grounds to do so e.g. to protect the interests of children or vulnerable witnesses.

3. Documents

The chair confirms that all the papers in the hearing bundle are correct and that everyone has sight of a full set of papers. If either party has new documents to present to the panel, their admission is considered at this point.

4. Allegation and opportunity for teacher to make admissions

The chair/legal adviser reads out the allegation.

The chair then asks whether the teacher admits the facts of the allegation and, if so, whether the teacher admits that it amounts to unacceptable professional conduct, conduct that may bring the profession into disrepute or that they have been convicted, at any time, of a relevant offence, as appropriate.

The chair invites the presenting officer to read out any agreed statement of facts (where facts admitted).

The chair invites the presenting officer to make an opening statement (where facts disputed).

5. Presenting officer presents evidence/witnesses

The chair invites the presenting officer to present their evidence (including evidence presented through witnesses). If witnesses are called, the chair asks them to affirm the truth of their evidence or swear an oath appropriate to their faith or religion. Witness statements are normally taken as read, though the panel may direct them to be read aloud. The presenting officer may then question their witness(es).

6. Allow teacher or representative to question

The chair informs the teacher or their representative that they now have the opportunity to ask the witness(es) any questions, or put an alternative version of events to the witness(es) where the teacher disagrees with what the witness(es) has said.

7. Questioning by members of the panel

Members of the panel may then ask the witness(es) questions.

8. Re-questioning by presenting officer

The chair may, exceptionally, allow the presenting officer to re-question their witness(es) on new areas raised by the teacher's/representative's/panel's questions only.

9. Witnesses called by the teacher or representative

The chair introduces the panel to each witness and asks them to affirm the truth of their evidence or swear an oath appropriate to their faith or religion. The witness' statement will normally be taken as read but there may be circumstances where the panel ask the witness to read it. The teacher or representative is allowed additional questioning if necessary. The presenting officer is then allowed to question the witness/teacher, followed by the chair and panel members.

Exceptionally, the chair allows the teacher or representative to re-question their witness(es) on new areas raised.

10. Release of witness(es)

The chair considers whether the witness can be released or whether they may need to be recalled. The parties may be asked whether they have a view about this.

11. Panel may request summings-up

The chair may invite both parties, beginning with the presenting officer, to make closing statements summing-up their case. The chair reminds the parties that new evidence should not be introduced at this stage.

12. Conclusion and decision

The chair asks the parties to return to their respective rooms whilst they adjourn (in private) to consider whether they conclude that the facts of the case are proven and, if so, whether this amounts to unacceptable professional conduct, conduct that may bring the profession into disrepute or conviction of a relevant offence. If the panel is satisfied on these points, it will ask the teacher or teacher's representative whether they wish to offer any mitigation, including that not previously mentioned, that would be relevant to a decision on whether to impose a prohibition order. All parties are then dismissed as the panel then decides in private whether to recommend to the Secretary of State that a prohibition order is appropriate. The Secretary of State's decision is always made public.



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