



HELLO FROM THE OTHER SIDE: TOP TIPS ON PROVIDING EVIDENCE IN FITNESS TO PRACTISE PROCEEDINGS

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It's a game of three halves

Topic	Objective
A. The shape of a fitness to practise (FTP*) hearing *GTCS – fitness to teach	<ul style="list-style-type: none">• To give a broad (generic) overview of the FTP process• To orientate you in terms of how factual witnesses fit in
B. Preparing for a FTP hearing	<ul style="list-style-type: none">• To outline what to expect if you are providing written evidence
C. Attending a FTP hearing to give evidence	<ul style="list-style-type: none">• To outline what to expect when you attend a hearing

The shape of a FTP hearing (1): professional regulators

GMC	General Medical Council (UK)
NMC	Nursing and Midwifery Council (UK)
GDC	General Dental Council (UK)
GOC	General Optical Council (UK)
GOsC	General Osteopathic Council (UK)
GCC	General Chiropractic Council (UK)
GPhC	General Pharmaceutical Council (England, Wales and Scotland)
PSNI	Pharmaceutical Society of Northern Ireland (NI)
HCPC	Other healthcare workers (such as Physios and SLTs) in the UK and social workers (in England only)
PSA	Professional Standards Authority for Health and Social Care (formerly CHRE) “oversee” above 9 regulators
GTCS	General Teaching Council for Scotland (Scotland: note FTT, not FTP)
SSSC	Scottish Social Services Council (Scotland)
NISCC	Northern Ireland Social Care Council (NI)

The shape of a FTP hearing (2): getting your bearings

Some typical milestones:

- Complaint / information received (from e.g. employer, patient, other member of the public, colleague, other source)
- Initial screening (e.g. jurisdiction) and investigation (named caseworker often appointed) - can consider if immediate action is required (an interim order).
- “Screening” process e.g. case examiners (one lay, one clinical - to Investigating Committee if they cannot agree)

The shape of a FTP hearing (3): getting your bearings

Typical outcomes:

- Conclude the case with no further action
- Issue a warning
- Agree undertakings
- Refer the case to the relevant Tribunal / Committee for a public hearing (e.g. for the GMC this is the MPTS, other regulators have their own tribunals)

The shape of a FTP hearing (4): getting your bearings

- Will consider facts / whether fitness to practise is impaired by reason of those facts / sanction
- Formal public tribunal setting
- Committee with Chair (lay and professional members)
- Legal adviser or legally qualified Chair
- Formal heads of charge (will have been disclosed in advance along with the evidence)
- Default position is that witnesses (factual and expert) will attend to give live oral evidence, be cross examined etc.
- Civil standard of proof – balance of probabilities

The shape of a FTP hearing (5): getting your bearings

So, how do I fit in...?

First contact – some orientation questions :

- Who is contacting me?
- Who is the complaint about?
- What stage has the complaint reached?
- Why am I being contacted?
- What is the timeline for a response?
- Also – where can I get some support?

The shape of a FTP hearing (6): getting your bearings

Myth busting: Step 1

- Anyone can make a complaint – access is a cornerstone of the system. But there are screening mechanisms embedded in the FTP procedure
- FTP proceedings are about more than being removed from the register

Recap

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Preparing for an FTP hearing (1): Scenario

- You have been asked by regulator X to provide evidence in relation to the conduct of registrant Y.
- Y is someone you worked with a few times when you were a member of bank staff / a locum. As far as you are aware, there were no problems on any of these shifts.
- You are surprised (and a bit taken aback) to receive this request some months after last working with Y. It seems that the case is being prepared for a public hearing.
- You have been asked to call a to make an appointment to speak to a caseworker at regulator X and to provide a witness statement.

Preparing for an FTP hearing (2): What to expect when providing written evidence?

What do you do?

You've asked yourself the orientation questions above

Some points are (relatively) clear: e.g. who is contacting me, about who, what stage in proceedings?

But other questions might include:

- **Why now?** The case has got to this stage without me so what can I contribute? It was just a few shifts months ago?
- **Why me?** I only met Y a few times – how can I provide a view on whether they are fit to practise? I am not an employee – I was bank staff / a locum?
- **Do I need to prepare:** documents?
- **What is a witness statement?**

Preparing for an FTP hearing (3): What to expect when providing written evidence?

What to expect when someone is obtaining information in order to prepare your witness statement:

- To be provided with an understanding of what will happen next and how the information you provide will be used – both immediately and longer term (e.g. who will be provided with a copy of your evidence, whether you will need to attend a hearing etc.)
- To be asked questions and for your answers to be recorded in note form so they can be written up in the correct format
- To be sent a copy of your witness statement for you to check, along with any documents that this exhibits, which reflects what you said
- To be have an opportunity to make sure you are happy with this before it is finalised, signed by you and returned

Preparing for an FTP hearing (4): What to expect when providing written evidence?

Top tips:

- The investigator is building up a picture of what happened
- Your role is to provide as much information as you can about your recollection of events
- Think carefully about the questions and answer in as much detail as you can: *“I knew Y arrived late that day as I saw them come in after handover”; “I was aware that Y arrived late that day because I was told this by person A”*
- But also: say if you don’t know the answer
- Carefully check your draft statement and amend as required – you will need to sign to confirm that it is true
- If anything changes, let your contact know

Preparing for an FTP hearing (5): What to expect when providing written evidence?

Myth busting: Step 2

- It not your role to decide whether someone is fit to practise, or not – you are providing information to assist a Committee to do so
- Although your statement may be prepared by a caseworker or lawyer, its vital that you are happy with its content and can sign to confirm that it is true and correct

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Attending a ftp hearing to give evidence (1)

Evidence in ftp proceedings can be agreed, or given in a variety of forms BUT

- Default position is that you will need to attend a hearing to give evidence
- If you require any special arrangements raise this as soon as possible
- Witness familiarisation v witness coaching
- Be aware of any expenses policy – what can you claim back and what proof do you need
- Know your venue –e.g. familiarisation via video or in person
- Understand the actors – who everyone is in the room and who is your key contact on the day
- Know the process – you will be sent info for witnesses or it is on regulators' websites
- Read your statement again in advance and take a copy with you (though don't expect to take it with you to give evidence)

Attending a ftp hearing to give evidence (2)

But what should you expect?

- A formal setting (though a variety of venues)
- A public hearing (with exceptions) – press can attend
- To dress comfortably but smartly
- To wait..... bring a book
- To give evidence under an oath of your choice
- To be asked questions on behalf of the regulator, the registrant under investigation, and by the Committee hearing the case
- For your evidence to be tested
- But remember, again, your role is just to tell the truth to assist the Committee

Attending a ftp hearing to give evidence (3)

Myth busting: Step 3

- You are not on your own – there is lots that can be done to prepare you to give evidence (that isn't witness coaching)
- Your evidence is a vital part of the jigsaw – but (repeat!) it is the Committee who are the decision makers

Summing up

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Over to you....

- Reflections?
- Thoughts?
- Questions?
- Discussion points?