



Guidance for those representing themselves in front of the Professional Conduct Committee

This guidance is to be read in conjunction with '*Guidance for those appearing before the ARB's Professional Conduct Committee*' and the Investigations and Professional Conduct Committee Rules.

Before deciding to represent yourself at the Professional Conduct Committee (PCC) you should consider whether you feel capable of doing so, and have explored other options for assistance - such as acquiring free legal representation.

Chair of the Committee

The Chair of the Committee will run the proceedings, and provide directions to both parties as how they expect the case to progress. The Chair will be aware of the difficulties a 'litigant in person' faces, and will use their discretion in allowing you to present your case as you see fit; but above all has a responsibility to ensure that the case is run in the interests of justice.

Clerk to the Committee

The Clerk to the PCC is there to ensure that proceedings are run in line with the law and the rules of the Committee. The Clerk will be able to assist you with any questions you have about procedure; however will not be able to advise you on how best to present your case.

McKenzie Friend

You may bring along an assistant to help you in presenting your case (a 'McKenzie friend'). This person may sit by you and provide advice, take notes and assist with documentation; but may not address the Committee themselves (unless requested to by the Chair).

Evidence

Any documentation you wish to rely on in your defence should be submitted to the Board no later than 14 days before the date of the hearing. The documentation should be paginated and, when referring to a particular document in making your submissions, it is easier for all parties if you quote the page number in question.

Proceedings

The order of proceedings is set out in Professional Conduct Committee Rule 16 and 17. This order may be varied if the Chair considers it appropriate to do so. In general the Board's solicitor will first present their case and call any witnesses to support the allegation(s). You will be given

the opportunity to cross-examine any of those witnesses before presenting your own case and calling any witnesses. If you are found guilty of any of the charges then you will be given a further opportunity to address the Committee in mitigation, before a penalty is issued.

Cross Examination

If the Board's solicitor calls any witnesses then you will have the opportunity to ask them questions before you present your own case. This is your chance to raise any matters the witness has given evidence on that will conflict with your own submissions. It is important to understand that you must ask questions for the witness to answer, rather than to give your own evidence at this stage.

When making your own submissions, you may choose to make them under oath – the Committee will attach more weight to sworn evidence. If you do choose to give evidence under oath the Board's solicitor will be given the opportunity to cross-examine you on what you have said.

Witnesses

If you intend to rely on the evidence of others, you should submit a summary of what they are expected to say at the hearing. It is important to understand that they may well need to attend the hearing to give testimony, unless you have received assurances prior to the hearing that their evidence will be accepted 'as read'. If they do not attend the hearing then the Committee may attach little weight to their evidence.

Witnesses appearing before the Committee will not be allowed into the hearing before they are called to give evidence, and are not allowed to consult with anyone during their testimony – even if there is a break in the proceedings.

There is the possibility that your witness may be waiting for a considerable time before being called, so you should contact the office prior to the hearing to discuss the likely schedule. Witnesses are free to sit in the public gallery once their evidence has been completed.

Mitigation

If you are found guilty of the charge(s), you will be given the chance to speak in mitigation before any penalty is decided on. This is your opportunity to address the Committee as to why the penalty should be a lesser one. For example, you may point out that you have a previous good record, provide references to your character, or explain that any previous failings have now been addressed.