

## Case management during hearings

Reference: CMT-9    Last Updated: 01/07/2022

It is important that our hearings are conducted in a way that maintains the public confidence in us as a regulator.

### How the panel manages the case

One of the roles of the panel is to manage the case, the people appearing before it, and to make sure the hearing runs smoothly, by managing when the hearing will be in session and deciding what time people need to attend each day.

The panel will also make the decision as to whether all, or part of the hearing should be held in [public or private](#), and which part of their reasons should be [published](#).

Members of the public, including the press, may attend the public parts of a hearing. The panel may need to maintain the anonymity of certain individuals, such as patients or people giving evidence who need this kind of support to effectively engage.

Sometimes people entitled to anonymity may prefer to be referred to by name, or a person may wish to refer to someone entitled to anonymity by name or their relationship to them (for example, saying “my sister”). The panel should facilitate people giving evidence to engage effectively with the hearing and consider whether directions are needed to avoid the identity of individuals entitled to anonymity from being revealed in public. Such directions may include:

- making an order<sup>1</sup> to prevent information that identifies an individual from being shared outside the hearing room
- hearing a person’s evidence in [private](#); holding the hearing in private is usually only likely to be necessary in extreme cases such as where there is a serious risk of the identity of an individual being revealed when it shouldn’t be.

### What the panel does as it hears the evidence

The panel can ask people giving evidence questions in order to clarify their evidence and help decide whether the charges are proved.

If a new issue comes up after someone has finished giving their evidence, the panel should think very carefully about whether the individual needs to be called back to give further evidence, or whether the panel can explore the issue with those who remain in session, other people who haven’t yet given evidence, or by considering the evidence they have already heard.

If the panel considers that we may need to carry out further investigation, it should consider carefully whether to adjourn the hearing to allow us to do this.

When making these decisions, the panel should always strike a balance between the nurse, midwife or nursing associate’s right to a fair hearing and our overarching objective of protecting the public in a fair and proportionate manner.

### Managing behaviour in hearings

Part of the panel’s role in managing the people appearing before it includes managing behaviour in hearings.

It’s important that all parties to the hearing are treated fairly, with respect and dignity. Some people can find hearings challenging or stressful. Part of the panel’s role is to make sure people in the hearing behave

appropriately, and ensure the hearing runs in such a way that allows all parties to engage effectively.

Where a person is behaving inappropriately - for example, being rude or hostile towards another person - the Chair of the panel should intervene and remind the person of the standards of behaviour expected during a hearing (see [Our expectations of everyone involved in a hearing](#)). We expect this will be sufficient in most cases to manage proceedings.

Where a person continues to behave inappropriately, the Chair should remind the person again of the standards of behaviour expected during a hearing.

Where a person continues to behave inappropriately despite repeated reminders, the Chair should warn the person that disruptive behaviour may result in their exclusion from all or part of the hearing.

Where the Chair has repeatedly reminded and warned a person about their behaviour, and they continue to behave in an inappropriate manner, the panel may exercise its power to exclude the person from all or part of the hearing.<sup>2</sup>

In cases of particularly serious poor behaviour - for example violent conduct, threatening behaviour and discriminatory or overtly offensive language – the panel may exclude a person from the hearing with immediate effect without reminders or a warning. This applies equally whether the behaviour has occurred, or if the panel considers such behaviour is likely to occur.

Our expectation is that the panel will intervene where a participant behaves inappropriately. In general, parties should recognise that the management of behaviour in a hearing is a matter for the panel. If, however, a party to proceedings considers that a participant is behaving inappropriately they may bring this to the panel's attention and invite it to intervene. The decision to intervene and to what extent will be a matter for the panel.

1 Under Rule 22(2) of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 the panel can, upon the application of the party calling a witness, direct that any details which identify a witness should not be revealed in public.

2 Rule 20(5) Fitness to Practise Rules 2004