

The Institute of Trichologists’
Policies and Procedures
Fitness to Practice Hearings

Fitness to Practice Procedure

Complaint Process – Raising a Concern

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Introduction

1. The overarching objective of fitness to practise proceedings, and hearings before the Registration Council (RC) is the protection of the public, provided by investigating and adjudicating concerns and imposing a sanction within a reasonable timeframe.
2. It is vital that delays in proceedings are minimised as they can adversely affect our overarching objective and can have a detrimental effect on all parties to a complaint.
3. This procedure sets out the factors to be considered when deciding the format of hearings before the Institute of Trichologists' (IOT) Registration Council (RC). The format can be a 'physical hearing', a 'remote hearing', or a 'hybrid' hearing (some participants present at one location and some present via online).
4. This manual is designed to assist all hearing attendees, case parties, legal representatives, the legal assessor, witnesses and hearing representatives of the IOT. It applies to applications for and reviews of interim orders, substantive hearings, registration appeals, restorations and hearings on the papers and case management hearings.
5. However Interim Suspension Hearings will be listed remotely due to the public interest in these hearings taking place as soon as possible and on shorter notice periods than substantive hearings. Any representations from the parties involved in an Interim Suspension Hearing who request that the hearing is listed as a hybrid hearing or physical hearing will be considered.
6. The procedure should be applied in accordance with the fair administration of justice. Guidance for practical arrangements for remote hearings are described in paragraphs 16-21.
7. This procedure will be subject to review, and where necessary updated as we determine from our experience in order to ensure that it continues to be fair and appropriate.

Overarching considerations

8. The overarching objective of the IOT is:

- To protect the health, safety and well-being of patients and the public;
- To maintain public confidence in the profession of Trichology
- To maintain proper professional standards and conduct for IOT registrants of the Trichology profession

9. When considering if a hearing should proceed physically, remotely or in a hybrid format, we will assess how fairness and justice can be achieved, balancing both the Registrant's interest and the wider public interest in line with our overarching objectives. We will also consider factors such as:

- Does the nature or complexity of the hearing, including factors such as its length, the number of witnesses, the charges involved, the volume of papers/size of the bundle to be considered by the panel and any physical evidence, indicate that one format may be more appropriate than another?
- Are there sufficient safeguards to ensure the integrity of the process and breaches of privacy can be avoided?
- Will the process protect the safety and well-being of all participants (decision-makers, legal assessors or the individual taking an official note of the hearing), including in accordance with any Government guidance in place at the time?
- Can any considerations of duties under the terms of the Equality Act 2010 be adequately provided for in relation to those with protected characteristics, including whether reasonable adjustments can be made for registrants with disabilities?
- Can public access to hearings be supported, for example, if there are a large number of observers?

10. Guidance on how to use the video conferencing platform is provided to hearing parties directly.

Guidelines

11. The RC consider, on a case-by-case basis, the appropriate hearing format. Careful consideration will be given to the individual features and circumstances of each case. Having gathered feedback from participants, it is our assessment that in most cases a remote hearing can be effective in ensuring fairness and justice.
12. The consideration will include, but is not limited to, the following factors:
 - 12.1. Whether the registrant and other participants have sufficient access to and understanding of technology, and access to an appropriate environment to enable them to take part effectively in a remote hearing, depending on the circumstances, the IOT may be able to make provision for registrants or witnesses to attend our offices or those of our legal advisors to participate in a hearing or attend by other means such as audio.
 - 12.2. Whether there is a reason to believe that there are risks of a breach of privacy that can be more easily overcome at a physical hearing.
 - 12.3. Any features of the case which make it particularly difficult for it to be held remotely: for example, difficulties in presenting evidence which cannot be accommodated at a remote hearing or the number of participants or witnesses.
 - 12.4. Whether there are any special measures or reasonable adjustments required to allow a participant to engage fully and effectively in the proceedings, which cannot be accommodated remotely.
 - 12.5. Evidence suggesting that the integrity or fairness or smooth running of the hearing may be compromised by a remote hearing.
 - 12.6. The impact of any disabilities or other vulnerability of any of the participants: this may dictate the necessity of a particular hearing format - ie. remote or hybrid hearing where this would allow an

individual, for example, a Registrant or witness to participate in a hearing.

12.7. The public interest in the expeditious disposal of cases: pausing hearings may lead to backlogs of cases and may delay necessary action to protect the public or restore registrants to practice and may impact the wellbeing of those taking part.

12.8. The health and well-being of participants: this may dictate the necessity of a particular hearing format - ie. remote or hybrid hearing where the health of a participant(s) makes it difficult for us to hold a physical hearing or physical hearing where the health of a participant may be negatively affected by long remote hearings.

12.9. The ability to ensure that the hearing complies with Government guidance on the safety of all involved: in the event of the introduction of restrictions, a remote hearing may be the most appropriate option.

12.10. Any other matters that may affect the smooth running of the hearing.

13. Aside from 12.1, we do not consider that any single factor above has any greater weight than the others. Different conditions will apply in individual cases and will need to be considered accordingly.

14. Where there is disagreement as to the hearing format, the parties will be invited to raise concerns and present evidence for consideration about the most appropriate format to be heard at a preliminary hearing of the Council.

15. Decisions taken to proceed by any format will be kept under review throughout the process and the arrangements may be changed or modified, if necessary, for example in the event of implementation of restrictions established by the government. Parties must swiftly notify the IOT of any relevant changes to their circumstances.

Arrangements for Remote Hearings

16. The following guidance sets out expectations on the conduct of how remote hearings are organised, what happens during the hearing and other relevant information. These procedures are intended for guidance only and do not constitute a direction to any Council to take a particular course of action when hearing cases.
17. Technology: The preferred platforms for remote hearings at the IOT are Microsoft Teams ('Teams') or GoTo Meetings. Telephone conferencing facilities may be available and can be used where a participant does not have access to a device with a camera, or in circumstances where Teams is temporarily unavailable for any reason. If an alternative platform is used, this protocol will still apply. In advance of the hearing, the IOT will set up virtual meeting rooms (including breakout rooms) for the hearing, with individual links sent to the relevant participants.
18. Timings: Remote hearings will usually be scheduled from 9:30am to 4:30pm, providing the Council and parties with the flexibility to manage the hearing day according to individual circumstances. Occasionally, these times may be adjusted due to the needs of any party at the direction of the Chair, for example when completing witness evidence or handing down a final determination to obviate the need to adjourn. This will be determined by the Council Chair taking into account the well-being of all participants. It is important the Council take account and be responsive to the 'tiring' impact affecting concentration and alertness. The Council Chair must ensure consideration is given to holding sufficient breaks, usually no less than every 90 minutes. A minimum 45-minute designated lunch break is expected. All hearing participants must ensure that they log out of the main hearing link. During extended breaks, all participants may be asked to log out and on re-joining must be muted and only engage in a conversation when the Chair or the Council Coordinator opens proceedings. Prior to any break in proceedings, the Council Chair will indicate the time that the hearing will resume. All participants must ensure that they return to the virtual hearing room promptly following any break.

19. Communication: The Council Chair will ensure that parties are introduced and identify everyone present in the ‘virtual’ room. A remote hearing is formal in the same way as a physical hearing and parties should ensure that communication, presentation and appearance are similarly formal. Parties to the hearing are expected to have their cameras on, with the microphone muted while not speaking to limit background noise. Participants should give consideration to where they are situated for the hearings. They should ensure that they are in a quiet room by themselves (unless the participant is the registrant and is accompanied by their representative) where they will not be disturbed. The Council Chair may wish to confirm with a witness whether they are alone in a room and to confirm if they are being assisted. Where the witness is being supported by a friend or family member, this individual should be positioned so that they appear on screen sitting behind the witness giving evidence. The lighting of the room should be checked to ensure that participants can be seen clearly without obstructions on the screen. Parties should be alerted to not talk over each other and should speak when invited to do so by the Council Chair. Where either the registrant’s or the IOT’s representative wishes to take instructions from instructing solicitors, the Council Chair should allow appropriate breaks to facilitate this. Test calls will be arranged with legal representatives (where they have not previously taken part in a IOT hearing), registrants and any other participant if needed to ensure they are familiar with Teams’ functionality and to test their connection.
20. Witnesses: Test calls will be arranged with witnesses in advance of the hearing to ensure the hearing runs as smoothly as possible. Witnesses will be provided with an electronic link to the waiting area for the main hearing room to allow them to join the hearing at the designated time. Access to the main hearing room will be controlled by the Council Coordinator. A factual witness will not be permitted to observe the hearing until after they have given their evidence. This is to ensure their evidence is not influenced or tainted. The witness will have a copy of their witness statement and any exhibits. A factual witness must not have access to other material in advance of the hearing / their evidence being given. Where the witness is required to be taken to documents within the bundle during questioning by the parties, they will be shown to the witness via the screen sharing facility – see paragraph 22 below or sent to the witness by secure email during the hearing.

In some cases, it may be appropriate to provide other documents to the witness in advance, by agreement between the parties, but that will be dealt

with on a case-by-case basis. Otherwise, no additional documents should be provided to the witness in advance of the case. If a witness requires any reasonable adjustments due to disability or other needs which will support them to take part and give the best evidence, they should contact the Council Coordinator in advance. In the same manner as a physical hearing, witnesses should not discuss their evidence with any other individuals during a break in proceedings, without permission from the Chair

21. Documents and bundles: Documents and bundles will be shared with the relevant parties electronically via secure methods prior to the hearing. It is advisable to always have these on hand during the hearing. If documents need to be handed up on the day, they will need to be sent electronically to the Council Coordinator, who will then circulate them securely to the Council, Legal Assessor and any other relevant party. Hard copies of the bundles will not usually be provided. However, if hard copies are required for accessibility reasons, please inform the Council Coordinator.
22. Screen share functionality: Teams allow participants to share their screens. Occasionally, for example, if the IOT's or registrant's representative wants to draw the attention of a witness to a certain document for all parties to see, it may be appropriate for them to share their screen. This can however lead to incorrect information being shared by accident or the right document being shared, but the information contained on screen could breach their or someone else's privacy. Participants must only share their screen with the agreement of the Council Chair and have taken care to mitigate any potential data security risks.
23. Public access: Hearings in front of the RC are to take place in public by default, but the Council may, where appropriate, choose to conduct some or all of it in private.. All hearings are to be listed on our website. If a member of the public wishes to attend, they can make a request to admin@trichologists.org.uk.

Observers will be sent an agreement form to confirm their agreement to several rules of admittance. No recording of a hearing of any kind is permitted– this includes recording audio and video, taking photos of the screen on a second device or taking screenshots. Once the agreement form has been returned, a link for the main hearing room will be shared with the member of the public. The link must not be shared with anyone else. Hearing

parties will be notified of the names of observers prior to the hearing commencing. The Council Chair will also reiterate the rules of admittance at the opening of the hearing. Observers will be ejected from the remote hearing if they breach these rules. Access to the main hearing room will be controlled by the Council Coordinator. Anyone attempting to access the main hearing room who has not provided a signed agreement form will be ejected from the virtual lobby. There may be times when certain information needs to be heard in a private session. Any observers will be required to exit the remote hearing at that time and will be notified by the Council Coordinator when they are permitted to re-join once the hearing resumes in public session. Observers should have their cameras and audio turned off unless requested to do otherwise by the Council Chair. Ultimately it will be for the Chair to direct what is appropriate on a case-by-case basis. For example, the Chair may ask an observer to turn on their camera and audio to identify themselves to the panel/parties and then direct them to turn it off again. Interim suspension hearings are held in public by default, but the IOT routinely requests that these hearings are heard in private. Where a decision is made that the hearing will proceed in private, public access to that hearing will be restricted.

24. Technical issues: The Council and the Council Coordinator actively monitor if technical issues are occurring during the hearing. If any party experiences technical issues during the hearing, they must be raised with the Council Chair or Council Coordinator as soon as possible. This includes poor connectivity issues that impede anyone's ability to hear or see proceedings. Proceedings should be halted until technical issues have been resolved, or, as a last resort, an alternative way to proceed is identified. This is to ensure that all parties have fair access to proceedings and that vital information or evidence is not misheard or missed altogether. If an observer is unable to hear or see proceedings, they should raise this with the Council Coordinator as soon as possible to ensure public access to the hearing is maintained. Despite thorough preparation prior to a hearing, sometimes technical issues arise on the day that cannot be avoided. This can slow or pause proceedings which can be disruptive so patience may on occasion be necessary. The Council Coordinator will provide parties and observers with email and telephone contact details in case of technical issues.
25. Role of the Council Coordinator: The Council Coordinator is responsible for the smooth running of the hearing. They will update parties and observers about start and finish times and when to return from breaks or private sessions, so it

is imperative that contact details are available to them. They will also create virtual meeting rooms and control access to them. Outside of their duties on hearing days, the Council Coordinator also facilitates the scheduling of the hearing, monitors case management direction deadlines, coordinates disclosure and paperwork, supports all parties with queries and technical support, and provides support to witnesses. The Council Coordinator will also provide additional support to unrepresented registrants and vulnerable witnesses if required.

26. Record of the hearing: A formal record of the hearing will be taken by a stenographer, along with an audio recording. Alternatively, the IOT may take the decision to record via the Microsoft Teams ('Teams') or GoTo Meeting application or other technology. A verbatim written note of proceedings is then produced – this is called a transcript. **No other party is permitted to record any part of the hearing**

27. Adjustments: If any participant in the hearing requires any reasonable adjustments due to disability or other needs which will support them taking part in the hearing, they should contact the Council Coordinator who will be able to assist.