



National College for  
Teaching & Leadership

# **Teacher misconduct: information for teachers**

**A guide for teachers subject to teacher  
regulation disciplinary procedures**

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# 1. Introduction

This guide supplements the information in the document *Teacher misconduct: Disciplinary procedures for the teaching profession* and provides practical information to support understanding of how the process works in practice. Section 1 provides a summary of teacher regulation, with more detail in subsequent sections.

You can read an overview of the teacher regulation system in England at:

[www.gov.uk/teacher-misconduct-regulating-the-teaching-profession](http://www.gov.uk/teacher-misconduct-regulating-the-teaching-profession).

And you can download and read all of the documents relating to the regulation process at: [www.gov.uk/nctl/teachermisconduct](http://www.gov.uk/nctl/teachermisconduct).

If you have any questions about the regulation process, please do not hesitate to contact the teacher regulation team on 0207 593 5393 or by email at

[Regulation.Division@education.gsi.gov.uk](mailto:Regulation.Division@education.gsi.gov.uk).

## Roles and responsibilities

The regulation of the teaching profession in England is managed by the National College for Teaching and Leadership (NCTL), an executive agency of the Department for Education. The NCTL carries out this work on behalf of the Secretary of State for Education. Referrals alleging serious misconduct against a teacher can be made to the NCTL by schools and employers, the police, the Disclosure and Barring Service (DBS), other regulatory bodies and the public.

The NCTL has an investigative role and it must consider all referrals that it receives. The NCTL will write to any teacher that it has received a referral about – this does not imply that a judgement about that teacher's conduct has been made.

In some cases a referral will be investigated by NCTL even though a teacher has been cleared by a criminal court, or a police investigation has ended without charge, or the DBS has decided not to bar that teacher. This is because the NCTL has a different role to other organisations and it must investigate all referrals that it receives, following its own procedures and remit.

The purpose of NCTL's regulatory function is to protect pupils, maintain public confidence in the teaching profession and uphold high standards of teacher conduct. If serious misconduct is found proven, then a decision is made about whether that teacher should be prohibited (banned) for life from the teaching profession. A prohibition order is not intended to punish the teacher concerned. Prohibition orders are imposed to fulfil the remit of protecting pupils, maintaining public confidence and upholding high standards.

NCTL's regulatory function covers anyone who is employed or engaged to carry out teaching work at:

- a school in England (including academies, free schools and independent schools)
- a sixth form college in England

- relevant youth accommodation in England
- a children's home in England
- a 16-19 academy

NCTL does not consider cases of minor misconduct, teacher incompetence or under-performance, as these should be dealt with at a local level by schools and employers. The document [Teacher misconduct: The prohibition of teachers](#) sets out advice from the Secretary of State about the types of behaviours that are likely to mean someone's conduct is incompatible with being a teacher and/or is so serious that the teacher should be prohibited. The behaviours referred to are not an exhaustive list and decisions are made on a case by case basis.

## Prohibition orders

A prohibition order means that someone is prohibited (banned) from teaching for life and cannot teach in any school, sixth form college, 16-19 academy, relevant youth accommodation or children's home in England. This includes academies, free schools and independent schools.

## Interim prohibition orders

At any stage of a case, the NCTL may consider imposing an interim prohibition order (IPO). An IPO prevents someone from teaching until their case has been concluded, and they are used in the public interest to protect pupils and the public from harm. For example, the NCTL may consider an IPO if an allegation suggests that the teacher may present a serious risk to children's welfare and/or education, or they may present a risk to parents or other members of staff.

If the NCTL is considering an IPO, the teacher will receive a letter giving them seven calendar days to present additional information. Once the response has been received or the deadline has passed, a senior member of NCTL staff will make a decision on an IPO within five working days.

If an IPO is imposed, the NCTL will write to the teacher and their current employer. After six months has passed, a teacher can make an application for the IPO to be reviewed. They can then apply for further reviews, every six months. The application needs to be in writing, setting out grounds for the review. Please refer to [Teacher misconduct: The prohibition of teachers](#) for further information on how IPOs are considered.

Please note that an IPO does not influence the final decision made about prohibition. That decision is made independently.

## 2. How a case progresses (a practical guide)

### Referrals

Upon receiving a referral, the NCTL will decide whether to undertake an investigation or to discontinue the case and take no further action. Once this initial decision has been made, the teacher will be informed in writing, notifying them of the allegations if the NCTL has decided to conduct an investigation. The letter will contain all of the information received to date and will invite the teacher to respond to the allegations within four weeks.

**It is recommended that teachers contact a legal professional or union representative for advice.** NCTL cannot give advice – its staff can only explain the processes involved in the regulation framework and how cases are administered.

It is the teacher's choice whether or not to respond to the allegations at this stage. They may for example, choose to send in paperwork relevant to their case such as notes of a school investigation. As recommended above, it is advisable to contact an organisation for professional advice before making any response.

Once the deadline for a response has passed, the case will be considered by a determination panel made up of senior NCTL staff. The panel will take into account all the documentation received to date, including information from the referrer, the teacher and any other parties the NCTL has contacted to collate a full picture of the allegations, such as previous employers or the police.

If the determination panel decides that there is a case to answer and the alleged misconduct is potentially serious enough to result in prohibition, then the NCTL hearings team will pass the evidence to a presenting officer. A presenting officer is a lawyer instructed by the NCTL to prepare the case and then present the allegations and evidence against the teacher to a professional conduct panel (see below).

If the NCTL does not believe that someone is a teacher under its regulations or considers that the misconduct is not serious enough or that there is no case to answer, then it will discontinue the case and notify the teacher and the referrer.

### What is a professional conduct panel?

A professional conduct panel is made up of three independent people who are not employed by NCTL or the Department for Education. A panel must include at least one teacher and one lay member (someone who has never been a teacher), and one of the panel acts as the chair. A panel is assisted with the regulatory process and points of law by an independent legal adviser who does not participate in any decision-making.

A panel will consider a case and then make a collective decision on whether each allegation is proven or not. If a panel makes a finding of serious misconduct, it will then

make a recommendation about whether a teacher should be prohibited. The final decision on prohibition is then made by a senior official in NCTL.

## Proceeding to a professional conduct panel

The teacher will receive a letter saying who the presenting officer is and what allegations have been referred to a hearing, with a summary of why the determination panel decided to pass the case on to a professional conduct panel.

Enclosed with the letter, will be a response form for the teacher to complete and return within two weeks. The form asks whether the teacher admits any or all of the allegations, and if any allegations are admitted, whether the teacher admits that the facts of the case amount to serious misconduct. NCTL uses three headings of serious misconduct and any or all of these may be applicable:

- unacceptable professional conduct
- conduct that may bring the profession into disrepute
- has been convicted, at any time, of a relevant offence

If the teacher admits all of the facts and admits those facts amount to serious misconduct, the form then asks the teacher whether they would like their case to be considered at a meeting or a hearing.

The purpose of the response form is to allow the teacher to request a meeting if they wish to do so.

The remainder of this section looks at what a professional conduct panel meeting entails and how it is different to a hearing, and also how to prepare for a hearing. Please see section 3 for detailed information on what to expect at a hearing.

## Requesting a professional conduct panel meeting

If the teacher admits **all** of the allegations **and** admits that they amount to serious misconduct, then they may request to have their case heard at a meeting instead of a hearing. This is usually a faster option as it takes less time to prepare and fewer people have to attend. If a teacher requests this option, the NCTL will consider whether the case is suitable to be held as a meeting (see below). If a teacher's case is considered at a meeting, it does not automatically follow that they will be prohibited. This will be determined on a case by case basis. Also, a teacher may admit all of the allegations and admit serious misconduct, but still prefer to have a hearing.

## Statement of agreed facts

If a teacher admits all the facts and serious misconduct and requests a meeting, the presenting officer will contact the teacher and/or their representative to prepare, sign and date a statement of agreed facts. This must be done within three weeks of the presenting

officer's request. This document will state that the teacher admits all of the allegations and that they amount to serious misconduct. It will also allow the teacher to provide the context for their admitted behaviour, for example to explain what happened and why. The panel will consider this statement as part of the evidence put before it at the meeting.

### **When is a meeting possible?**

If a teacher requests the meeting option, the NCTL will consider whether the case is suitable for a meeting, taking into account the [Teacher misconduct: Disciplinary procedures](#). The NCTL will only consider cases for meetings if the facts are not contested. If all of the allegations are not admitted or if the teacher admits the allegations but does not admit serious misconduct, then a hearing is required to investigate and establish the facts of the case.

The case will also proceed to a hearing if:

- the teacher does not respond with a completed form within two weeks of receiving the notification letter
- a statement of agreed facts cannot be agreed by the teacher and the presenting officer
- after considering the request for a meeting, the NCTL decision maker decides that it is in the public interest or in the interest of justice for the case to be considered at a hearing

### **What happens at a professional conduct panel meeting?**

The professional conduct panel will meet in private to consider the case on the papers presented to them, assisted by a legal adviser. There are no witnesses and the presenting officer and teacher do not attend.

Although a professional conduct panel meeting is held in private, the decision of the panel is announced in public. At the end of the meeting, members of the public (including the press) are allowed to enter the meeting room to hear the panel chair read aloud the panel's findings of fact and findings as to serious misconduct. This is called the announced decision.

Please note that a public notice of a meeting is published on the GOV.UK website one week in advance.

If a finding of serious misconduct is made, the panel will go into private session to decide upon a recommendation on prohibition. The NCTL decision maker will usually make the final decision within one working day, and the teacher and referrer will normally be informed in writing within two working days of the decision being made. If there is a finding of serious misconduct, a document summarising the outcome will be published online within two weeks at: <http://tinyurl.com/regulation-outcomes>.

## **Preparing for a professional conduct panel hearing**

If the case is proceeding to a hearing, the presenting officer will contact the teacher and/or their representative to discuss preparation for the case. For example, they will discuss arrangements for exchanging documents and witness statements. To make the proceedings fair, both parties are entitled to have advance sight of the evidence that the other side intends to rely upon at the hearing. This assists both parties in being able to present their case.

Once the presenting officer has concluded their preparation of the case, the teacher will receive a Notice of Proceedings from the NCTL at least eight weeks before the hearing date. This contains important information regarding the details of the hearing including the date, time and location of the hearing; the names of the panellists; the allegation(s); the names of the NCTL witnesses; the details of the presenting officer; and the requirements for the service of documents for the hearing.

Please note that the wording of allegations may change between the initial letter informing the teacher that the matter has been referred to a hearing and the Notice of Proceedings, in order to reflect the evidence gathered by the presenting officer.

Enclosed with the Notice of Proceedings, will be a response form for the teacher to complete and return within three weeks. The form asks the teacher a number of questions to assist both the NCTL and the panel with the administrative arrangements for the hearing.

### **The case papers**

The case papers are the evidence that the panel will be asked to consider. Examples of what might be included are: witness statements, minutes from meetings, paperwork relating to a school or police investigation, correspondence between a school and the teacher, records of training a teacher has attended, a teacher's personnel files, files relating to pupils, school policies, etc.

### **Unrepresented teachers**

If the teacher is represented, their representative will handle the preparation of the case papers and also the presentation of their case at the hearing. However, if the teacher is unrepresented then it would be useful for them to think about what evidence could help their case. For example, were there witnesses to any of the alleged conduct? Are there members of staff that have an insight into any of the circumstances involved? Are there notes of meetings or copies of emails or letters that are relevant? Unrepresented teachers should then contact those witnesses and/or whoever would have copies of relevant documents to obtain that evidence before the hearing.



## Serving papers

The [Teacher misconduct: Disciplinary procedures](#) state that both parties must send the other party and the NCTL all of the documents they intend to rely upon at least four weeks in advance of the hearing. This is known as 'serving papers'. The presenting officer will send the teacher the evidence they intend to include in the case papers. And the teacher will be asked to provide any evidence they wish to have included.

If either side wish to include additional documents in the case papers outside this timeframe, they must inform the other party as soon as possible and make an application to the panel on the first day of the hearing to ask that the documents are accepted.

The party will have to prove to the panel that the late documents are relevant and explain why they were not served at least four weeks in advance. The other party will also have the opportunity to object to their inclusion on the grounds of unfairness, or on the grounds that the documents are not relevant to the proceedings. The panel will consider any applications and announce in public its decision and reasons on whether to allow the late documents to be submitted.

## Witness statements

Often, a party may wish to rely upon the evidence given by a witness. This requires the party to contact the witness and ask them to prepare, sign and date a written statement of what they saw or know about the allegations. These statements form part of the papers that each party must share with one another in advance of the hearing. It is important that a witness statement is signed and dated and clearly states who the witness is (e.g. their full name and their role) to ensure that it is valid.

Either party may wish to call a witness to give live evidence at a hearing. This is considered better evidence than a written statement as it means that the panel and both parties can 'test' the evidence by asking the witness questions about their statement. If either side intends to call a witness to give evidence then it assists the panel if they include a signed and dated written statement from that witness in the case papers.

Each party is entitled to call two witnesses to a hearing, and the NCTL will reimburse their expenses (e.g. cost of travel to the hearing). If either party wishes to claim expenses for more than two witnesses then they must contact the NCTL Hearings Manager as early as possible to explain why they need more witnesses to attend.

If either party wishes to call a witness but they have refused to attend, they can make an application for a direction requiring the witness to attend. This application would need to be made to the NCTL in advance of the hearing.

There is more information on witnesses and how they are questioned in section 3.

### **What if there is new evidence?**

Sometimes in the course of an investigation, the presenting officer will find new evidence that means that they believe new allegations should be added. If this happens, the presenting officer will write to the NCTL requesting a change with reasons to support this, enclosing any new evidence that relates to the request.

NCTL will write to the teacher enclosing a copy of the application made by the presenting officer and the teacher will normally have four weeks to respond. Once the response has been received from the teacher, or the deadline has passed, the NCTL will refer the request to a determination panel. The panel will then decide whether the new or amended allegations should be taken forward.

If there are new allegations, the teacher will still receive the minimum eight weeks of notice before a hearing date commences, so this may mean that the hearing date is rescheduled to give the teacher additional time to respond to the new allegations.

If the teacher or their representative provides new evidence to the NCTL that challenges whether the allegations should be taken further, the NCTL will refer this new evidence to a determination panel. The panel will then decide whether there is still a case to answer, whether there should be further investigation or whether the case should be discontinued. The teacher will receive the determination panel's decision in writing within two weeks of the determination panel decision.

### 3. How does a hearing work?

Most professional conduct panel hearings are held at NCTL's offices near Coventry city centre and usually start at 9.30am. Teachers and their representatives are normally asked to arrive for 9am. The address and a location map are on page 22.

On arrival, the reception desk staff will sign visitors in and give them a pass, which they must wear at all times in the building. An NCTL member of staff will take the teacher and their representative to a room reserved for them. There is a canteen where drinks, snacks and a hot or cold lunch can be purchased.

#### Listing a date for the case

All parties will be asked to complete an availability calendar to show when they are not available so that NCTL can list a hearing date. If a teacher provides very limited availability, NCTL reserves the right to list the case on a date of its choosing. This is to ensure that unnecessary delays are avoided. The length of a hearing will vary depending on the complexity of the case and the number of witnesses giving evidence.

#### Vulnerable witnesses

Giving evidence can be a difficult experience and NCTL is committed to ensuring that being a witness does not have a negative impact on someone's wellbeing. The NCTL treats all children under the age of 18 at the start of a hearing as 'vulnerable witnesses'. This means that special measures may be considered to support them to give their best evidence. This may include being able to give evidence via a video link or having the teacher seated behind a screen while evidence is given.

There are other reasons why the NCTL treats someone as a vulnerable witness and this may include any witness:

- who is the alleged victim where the allegation against the teacher is of a sexual nature
- with a mental disorder
- who is significantly impaired in relation to intelligence and social functioning
- with physical disabilities who requires assistance to give evidence
- who complains of intimidation

Special measures considered necessary to safeguard the interests of a vulnerable witness may include:

- the use of a video link
- the use of pre-recorded evidence

- the use of interpreters (including signers and translators)
- the use of an intermediary (an adult who helps explain questions to the witness)
- the hearing of evidence by the panel in private
- the attendance of a witness supporter

The teacher is not allowed to question a child witness. Also, where any part of the allegation is sexual in nature and the alleged victim is giving evidence, the teacher is not allowed to question that witness. However, the teacher's representative is entitled to question all witnesses. If a teacher does not intend to be represented in a case involving a child or vulnerable witness they should contact the NCTL as soon as possible.

A party who wishes to call a vulnerable witness, must submit an application to do so to the NCTL as far in advance as possible. A case management meeting will then be arranged at which one or more panel members meet to consider any applications made. This may be a meeting in person or by telephone. A legal adviser will be present to ensure fairness and that the correct procedures are followed. As with all applications, the panel will make a decision and inform both parties of its decision and reasons.

## **How are witnesses questioned?**

The process is investigative rather than adversarial. This means that questioning by the panel, presenting officer, teacher and/or their representative should be courteous and not intimidating, but it may be challenging. This applies to the questioning of all witnesses, including the teacher who is facing the allegations.

Please see Appendix A for a guide on NCTL's expectations of how to question witnesses at our hearings. If at any point the panel feel that questioning is not appropriate, then the panel or legal advisor will intervene.

## **Making applications**

There are different kinds of applications that both parties can make either before or during a hearing. So far, this guidance has already covered applications to submit late papers, to treat someone as a vulnerable witness, and to direct that a witness attends a hearing. Other applications may include but are not limited to:

- requesting that a hearing or part of a hearing should take place in private
- requesting that a hearing should proceed in the absence of the teacher
- requesting an allegation should be dropped or amended

If a party wishes to make an application, they should tell the other party in advance that they intend to do so if possible. They then need to present an argument to the panel, and the other party may challenge if they wish. The panel will then consider the application in

private with the assistance of a legal adviser. If the application is made during a hearing, the panel will announce its decision and reasons in public. If the application is made before a hearing and dealt with at a case management meeting, the panel's decision will be sent in writing to both parties within seven calendar days.

Where there will be evidence about medical conditions or medical histories, it is usual practice for an application to be made to request that this evidence should be heard in private. Please refer to section 4 'Data protection, privacy and public information' for more information on requesting that a hearing takes place partly or wholly in private.

### **Does a teacher have to attend a hearing?**

Teachers do not have to attend the hearing of their case – it is their choice. And they do not have to be represented. A teacher may choose to present their own case or ask a friend or family member to represent them. However, it is recommended that teachers contact a union representative or legal professional for advice. Some teachers choose not to attend a hearing, but ask their representative to attend on their behalf.

**If a teacher does not attend their hearing, it is important to note that their written statement is given less weight than if they gave evidence in person.**

This is because the panel is assisted by being able to ask the teacher questions about their evidence. This 'weighting' is the same for all witness evidence – evidence given in person is given more weight than a written statement.

If a teacher or a representative does not attend the hearing, the NCTL is likely to apply for the hearing to proceed in the teacher's absence. The panel will consider whether certain key documents were served on the teacher, whether the teacher has expressed an intention to attend or not to attend, whether it is fair to continue in their absence, and whether there is a likelihood that the teacher would attend if the hearing was rescheduled.

### **Adjournments and postponements**

A postponement application may be made by either party before the first day of the hearing and will be considered by officials at the NCTL. For a postponement to be agreed, strong reasons must be presented why it would be in the interests of justice to delay the hearing.

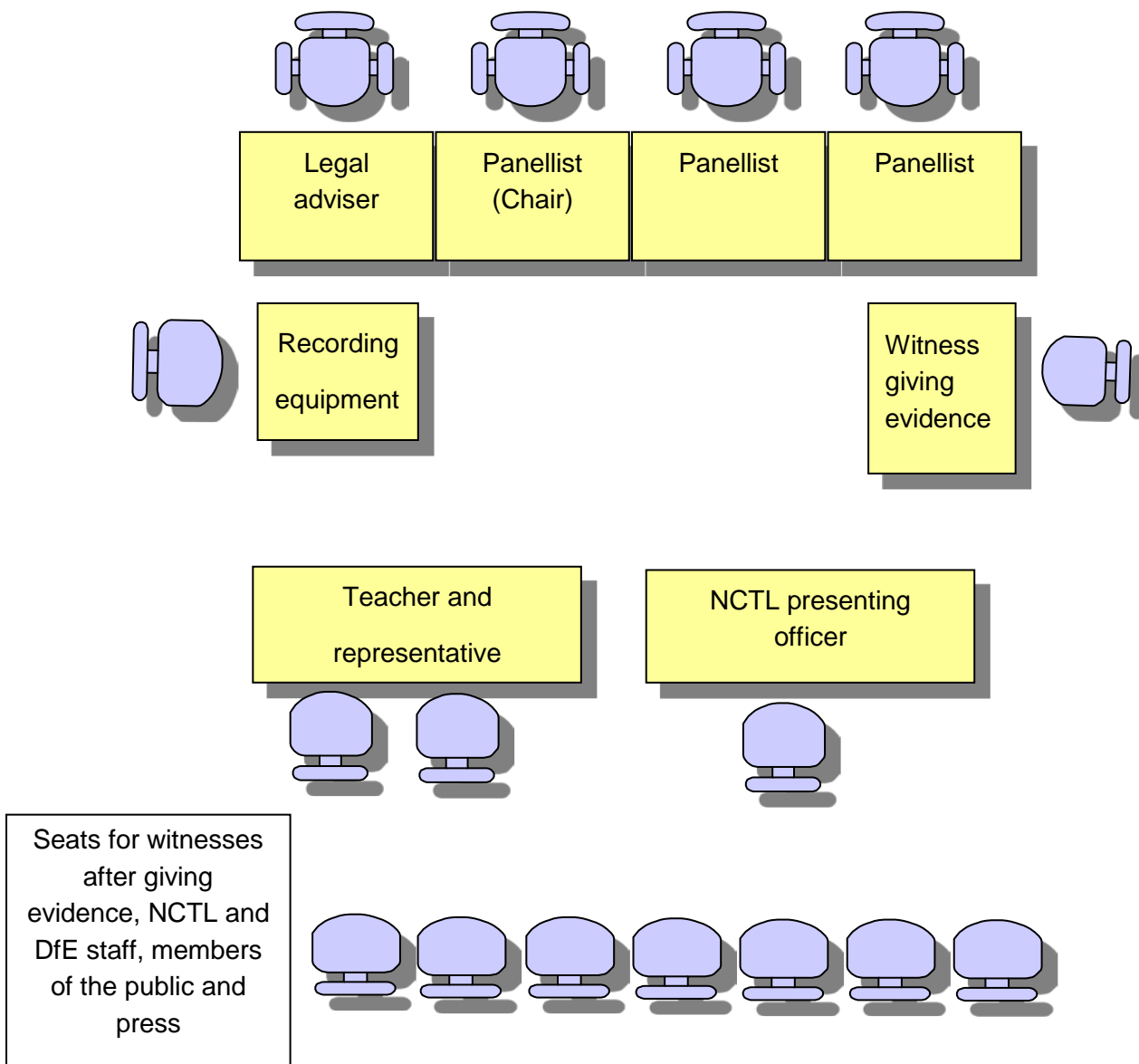
Adjournments can be requested by either party after the hearing has started by making an application to the panel. Reasons for requesting an adjournment may include that a participant is unwell or an unexpected emergency has occurred and therefore a key participant cannot attend. Adjournments can also occur when a hearing takes longer than expected and so the parties need to come back at a later date to continue the hearing.

## Amending the allegations

At any stage before making its decision about whether the facts have been proved, the panel may, in the interests of justice, amend an allegation. Before making an amendment, the panel will consider any representations by the presenting officer and by the teacher/teacher's representative, and will take advice from the legal adviser.

## At the hearing

The room layout of a hearing is shown below, indicating where all the participants will sit. Hearings are recorded onto a CD and there are chairs at the back of the room for members of the public including the press.



## Outline of a hearing

The aim of a hearing is to investigate the evidence so that a panel can decide whether the facts against the teacher have been proved and whether that amounts to one or more categories of serious misconduct:

- unacceptable professional conduct
- conduct that may bring the profession into disrepute
- conviction, at any time, of a relevant offence

**In a criminal court, an allegation has to be proved beyond reasonable doubt. In NCTL proceedings, the presenting officer is required to demonstrate that the facts alleged are more likely to have happened than not.** This is known as the balance of probabilities, which is the standard of proof used in civil proceedings.

There is no onus on the teacher to prove their innocence – the burden is on the presenting officer to prove the case against the teacher. The teacher does not have to attend a hearing, and if they do attend, they do not have to give evidence.

A detailed outline of a hearing is provided below.

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

The chair introduces themselves and the other members of the 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 name. 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 are also asked to confirm whether the teacher will be giving evidence.

### **2. Preliminary applications**

Before the main part of the hearing begins, the parties have the opportunity to submit preliminary applications and the panel will consider and decide on any applications made.

### **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, the panel considers whether to accept them at this point.

### **4. Allegations, opportunity for teacher to make admissions, opening statements**

The chair 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

- conviction, at any time, of a relevant offence

Where facts are admitted by the teacher, the chair invites the presenting officer to read out any agreed statement of facts.

Where facts are disputed, the chair invites the presenting officer and the teacher/teacher representative to make an opening statement.

### **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 to read an oath appropriate to their faith or religion. Written 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.

### **6. Questioning by teacher or their representative**

The chair informs the teacher or their representative that they may ask the witness questions, including putting an alternative version of events to the witness if the teacher disagrees with what the witness has said.

### **7. Questioning by members of the panel**

Members of the panel may then ask the witness questions.

### **8. Re-questioning by presenting officer**

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

### **9. Witnesses called by the teacher or representative**

The witnesses called by the teacher's side are then questioned. The teacher may also give evidence at this point if they choose to do so. The teacher/teacher's representative asks questions first, followed by the presenting officer and then the panel. As above, the teacher's representative may then re-question their witnesses on any new areas raised.

### **10. Release of witnesses**

After each witness has given evidence, 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. Closing statements**

Once all witness evidence has been heard, the chair invites both parties, beginning with the presenting officer, to make closing statements summarising 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 waiting areas while the panel meets in private to consider whether it concludes 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
- conviction of a relevant offence

After a period of deliberation, the panel will call the parties back to the hearing room and the chair will read aloud the 'announced decision', stating whether the panel finds each allegation proven or not, and if there is a finding, whether this amounts to serious misconduct.

## Mitigation

If there is a finding of serious misconduct, the panel will ask the teacher or teacher's representative whether they wish to offer any mitigation, including that not previously mentioned. This can involve the teacher or other witnesses giving oral evidence. Mitigation is about providing reasons and explanations for the teacher's behaviour, and it should be relevant to a decision as to whether to impose a prohibition order. Teachers should refer to [Teacher misconduct: The prohibition of teachers](#) for the types of behaviours and factors considered when a recommendation and decision about prohibition are made. This document is advice from the Secretary of State that the panel and NCTL decision maker must use when making a judgement about prohibition.

The presenting officer is also invited to make a submission and at this point they may draw the panel's attention to any previous regulatory outcomes or sanctions.

## Final decision on prohibition

After mitigation is heard, the hearing concludes and both parties are dismissed. The panel then decides in private whether to recommend to the Secretary of State that a prohibition order is appropriate. This recommendation is passed to a senior member of staff from NCTL and they make the final decision about prohibition on behalf of the Secretary of State. This is usually done within one working day and the teacher is notified in writing, normally within two working days of the decision being made. The teacher may request that the decision is sent to them by email as well.

If there has been a finding of serious misconduct, the referrer and current employer are also notified. Within two weeks of the decision being made, a summary of the case and the outcome is published on the GOV.UK website at: <http://tinyurl.com/regulation-outcomes>.

## Review periods

In some cases, the NCTL decision maker may allow a period of review after which the person may apply to have the prohibition order set aside. Applications to set aside prohibition orders are considered by a different professional conduct panel and the onus

is on the applicant to prove to the panel that they are suitable to be allowed back into teaching.

## **Appeals**

If a teacher is prohibited, they are entitled to appeal against their prohibition order within 28 calendar days. Appeals should be made directly to the High Court. A lawyer is not required to lodge an appeal, although it may be beneficial to speak to a legal professional. Appeals cannot be made to NCTL, the Department for Education or the Secretary of State. However, the person appealing should serve a copy of the appeal notice, together with copies of any other documents they have filed in the High Court, on the Secretary of State within the period specified by the court.

## **Customer feedback**

The NCTL provides optional questionnaires for teachers, their representatives and witnesses to answer. This is to help the NCTL hearings team to understand each party's experience of the regulation process. This feedback is collected so that the NCTL can review and improve its processes, guidance and communications.

## 4. Data protection, privacy and public information

### Contact details

The NCTL regulation team handles very sensitive data and we are committed to maintaining the confidentiality and security of all data that we use in the course of our work. When a referral is made about a teacher, we will write to that teacher using the last known address we have on file. It is important that a teacher lets us know if their address or other contact details change so that sensitive documents are posted to the correct address.

If a teacher wishes to have a representative to act on their behalf (such as a lawyer or a union representative) then the teacher must provide NCTL with their permission in writing. Without this written permission, we will not enter into correspondence with someone else about the case. Teachers may opt to have all information sent via email, but again, we require the teacher's written permission to do this.

### NCTL contact with employers, referrers and other parties

If the referral comes from an employer then we will contact them when we know whether the case will be referred to a professional conduct panel. We will also write to the employer at the time the allegations arose to inform them of the hearing date once it is set. If a finding of serious misconduct is made, we will contact the referring employer and the legal employer, and if the person is still working as teacher, their current employer.

We receive referrals and relevant information from the police and other organisations such as the DBS, and as part of our investigations we may need to contact the teacher's current or former employers, the police, etc to find out relevant information about the allegations.

### Requesting a hearing is held in private

The presumption is that professional conduct panel hearings are held in public and that members of the public, including the press, may observe hearings. If a teacher believes that a hearing (or parts of it) should be heard in private, they can make an application request providing their reasons. This application can either be submitted in advance to the NCTL for a case management hearing, or submitted to the panel on the day of the hearing.

A panel may exclude the public from a hearing or part of a hearing where:

- it appears to be in the interests of justice to do so
- or
- the teacher makes a request that the hearing should be in private and the panel does not consider it to be contrary to the public interest

or

- it is necessary to protect the interests of children or vulnerable witnesses

Examples of where panels may go into private session include when they hear evidence about someone's medical conditions and/or medical history, when the evidence relates to a child and the evidence may make them identifiable, or when a child or vulnerable witness is giving evidence. (Please refer to page 11 for more information on vulnerable witnesses.)

**Even when a professional conduct panel is held in private, the findings of the panel are announced in public in accordance with the interests of justice and the public interest.**

At the end of the initial decision-making process, members of the public (including the press) may enter the hearing room to hear the chair of the panel read aloud the panel's decision. This 'announced decision' explains whether the panel found each allegation proven or unproven and why, and whether the panel made a finding of serious misconduct.

## **What information about a case is published?**

If a case is due to be considered by a professional conduct panel, NCTL will publish a notice on the [GOV.UK website](#) a week before the hearing or meeting starts. The information published is limited to the teacher's name, the location where they worked as a teacher, and the date and location of the panel.

At the start of a hearing the allegations are read out, and are then made available to members of the press on request.

In concluded cases where there has been a finding of serious misconduct, a summary of the case is published online on GOV.UK within two weeks of the decision being made at: <http://tinyurl.com/regulation-outcomes>. The outcome summary document includes the findings of the panel, the panel's recommendation to the Secretary of State about prohibition, and the final decision on prohibition made by a senior NCTL member of staff on behalf of the Secretary of State.

The names of all pupils involved and any witnesses who give evidence are anonymised in the summary documents that we publish.

Please note that an outcome is published if there is a finding of misconduct, even if the teacher is not prohibited from teaching. There is a link to these forthcoming notices and the outcome summaries from this page: [www.gov.uk/teacher-misconduct-regulating-the-teaching-profession](http://www.gov.uk/teacher-misconduct-regulating-the-teaching-profession).

The NCTL has a statutory duty to publish all decisions of the Secretary of State following a professional conduct panel, and must include the following information if a teacher is prohibited by the Secretary of State:

- teacher name, date of birth and teacher reference number
- name of institution or local authority where the teacher last worked
- date prohibition order was made and the date it takes effect
- the reasons for making the prohibition order

The outcome summary documents are published online indefinitely. However, the NCTL may consider redacting published information upon written request if there is strong evidence that its publication is causing undue harm or distress.

In terms of press enquiries, the NCTL does not provide further information or comment on the summary documents that we publish. And we do not comment on ongoing cases or disclose the names of teachers who have been referred.

Members of the public (including the press) are able to see a list of all prohibited teachers on request, and this list will include teachers who are subject to an interim prohibition order.

Information about a prohibition order will show on a teacher's online Employer Access record so that potential employers of teachers can check teacher records to see if there are any sanctions recorded against them. If a teacher is found to have committed serious misconduct but they are not prohibited, this finding will also be recorded on Employer Access.

If none of the allegations against a teacher are proven or if the proven allegations do not amount to serious misconduct, then no information about the case is recorded on Employer Access or published online.

NCTL shares information as appropriate with other organisations including the DBS. For example, the NCTL regularly sends lists of prohibition orders to the teacher regulatory bodies in Wales, Scotland and Northern Ireland, and they send their lists to NCTL, so that each body can consider whether to add the name of a teacher prohibited in another jurisdiction to its own prohibited list. If you have any questions about what information is made publicly available, please contact the teacher regulation team on 0207 593 5393 or by email at [Regulation.Division@education.gsi.gov.uk](mailto:Regulation.Division@education.gsi.gov.uk).

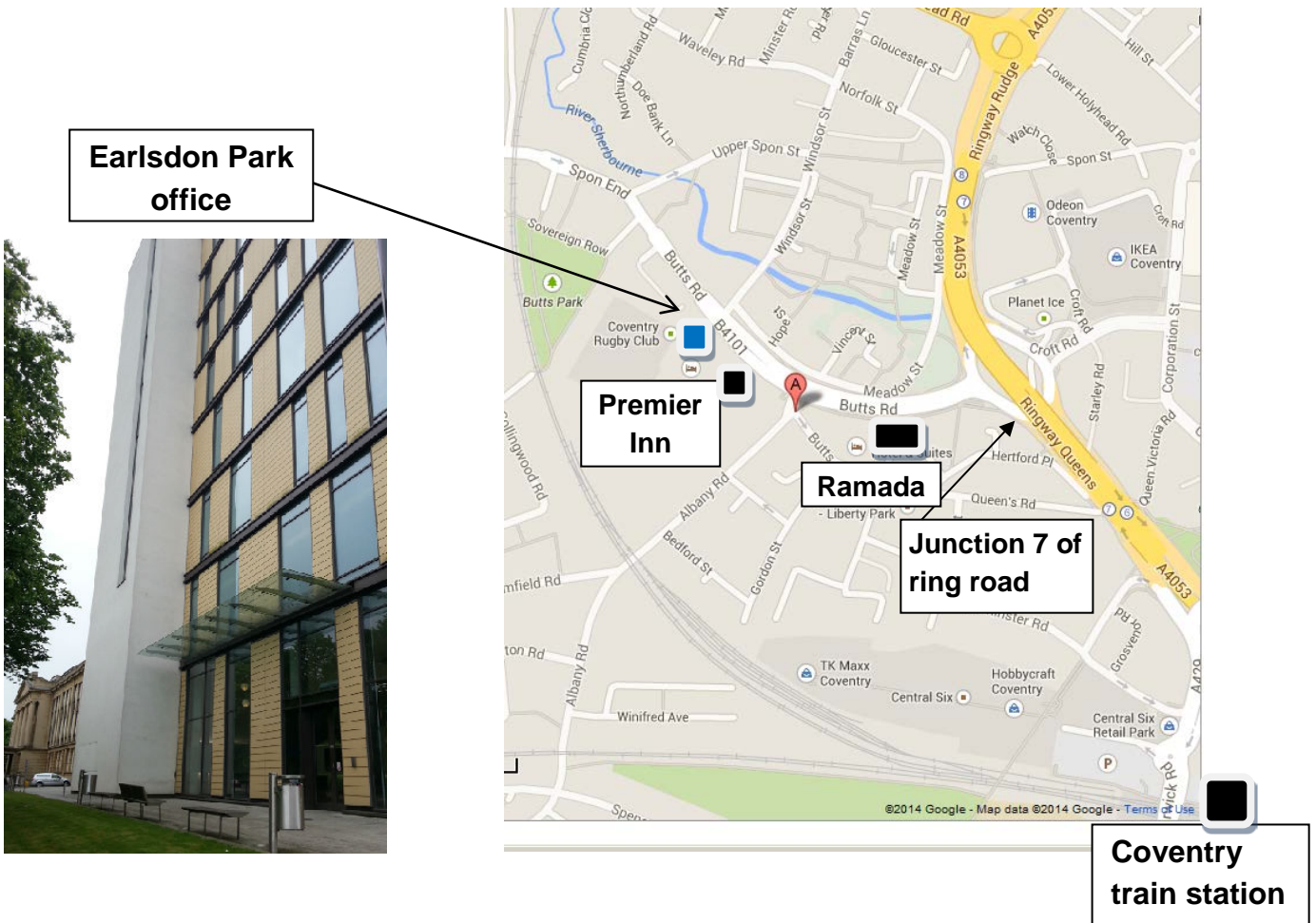
## 5. Location of NCTL hearings

Teacher regulation hearings are usually held at NCTL's offices in Coventry: 53-55 Butts Road, Earlsdon Park, Coventry CV1 3BH. The offices are located between the Premier Inn and Coventry Rugby Club. Please see map and photograph below.

By road, on approaching Coventry follow the signs for the city centre. Join the ring road and exit at Junction 7 signposted Skydome / Ikea Plaza. Exit the roundabout onto Butts Road (B4101) signposted Earlsdon. The NCTL offices are at the traffic lights immediately after the Premier Inn, and share an entrance with a multi-storey public car park. The public car park (not run by NCTL) operates a cash-only system and does not provide change.

By rail, Earlsdon Park is approximately a 10 minute walk from Coventry train station.

There are many bus services running from the city centre that drop off at Earlsdon Park, including: 32, 32C, 33, 34, 70, 81.



## Appendix A: A guide to questioning witnesses

NCTL hearings take an investigatory approach and are not adversarial. Questioning by the panel and by the presenting officer, teacher or their representative should be courteous and not intimidating, but it may be challenging. This applies to the questioning of all witnesses, including the teacher who is facing the allegations.

It is important that all parties read this guidance. It sets out NCTL's expectations of how witnesses should be questioned at our hearings and includes specific guidance focused on the questioning of child and vulnerable witnesses. If at any point the panel feels that questioning is not appropriate, the panel or legal advisor will intervene.

### Introductions

- All parties should be introduced to the witness.
- The chair should thank the witness for attending and try to make them feel at ease.
- The chair should explain that where possible, the witness responses should be directed toward the panel members, even when someone else is asking the questions, because it is the panel members who are considering the case.
- The chair should ask witnesses to let the panel know if they do not understand a question or if they need a break at any point.
- If using a video link, the chair should ensure that the witness can see the panel and the person asking questions.

The NCTL will ensure ahead of time that all equipment is working, any recordings can be played and that the room is set up in accordance with any specific directions from the panel, for example, if there are directions about what should be viewable via a video link or about the use of screens.

### Formulating and asking questions

- Keep a neutral tone of voice and use neutral body language.
- Use a structured and logical approach.
- Speak in plain English.
- Avoid using 'tag' questions that end in phrases such as 'didn't you?', 'isn't that the case?', etc.



## Questioning child and vulnerable witnesses<sup>1</sup>

- Encourage young witnesses to let the court know if they have a problem.
- Avoid asking young witnesses at trial to demonstrate intimate touching on their own body.

### Do's – helpful strategies to assist

- Talk calmly, in a natural voice.
- Keep gestures to a minimum, as they may be a distraction. If gestures are necessary, accompany them with unambiguous statements or questions to explain.
- Follow a structured approach.
- Use clear, simple language and only necessary and common words and phrases.
- Use the individual's name at the start of each question so they know they are being addressed, and to encourage them to focus in on the question.
- Cue the individual in to the language you are about to use by 'signposting', preparing them for instructions or questions that might follow. For example: *John, I am going to ask you a question...*
- Use more detailed 'signposting' questions, such as *John, We are going to talk about your home now...*
- Ask one short question (accommodating only one idea) at a time.
- Use closed questions. For example: *Susan, tell me what you saw happen in the shopping centre around 10 o'clock* is likely to be a more profitable approach than *Susan, tell me what you saw yesterday*.
- Consider whether backing up questions with the use of visual aids or supports might assist.
- Allow the individual thinking time to respond to each question: processing information may take the witness or defendant extra time.
- If you decide to repeat a question following an answer, explain why you are doing so to allay any fears that the first answer to a repeated question was wrong.

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<sup>1</sup> The text from this point to the end of this guidance document is included with the kind permission of The Advocacy Training Council from pages 57-59 of their 2011 report '[Raising the Bar: The Handling Of Vulnerable Witnesses, Victims And Defendants In Court](#)'. It is intended to indicate the principles that should be adopted when questioning child and vulnerable witnesses. The Advocacy Training Council's full range of toolkits can be accessed online at [www.theadvocatesgateway.org/toolkits](http://www.theadvocatesgateway.org/toolkits)



- If there is no response at all, try rephrasing the question or adopting a different approach.
- Be led by the child's choice of vocabulary for objects or body parts, particularly for the genitals.
- Be led by the child's choice of vocabulary for those in authority (for example, some children may be used to calling teachers 'Mr' and 'Mrs', and would be reassured by the same language. Others may find it less intimidating to use first names).
- Where a vulnerable witness or defendant is obviously distressed, assess whether changing a line of questioning to something less challenging could be as effective as suggesting a break.
- Achieving clarity in questioning can help a child understand the process of evaluating evidence:
  - a You told the PC X it happened in your bedroom
  - b You told X it happened in the bathroom
  - c They cannot both be true.

### Don'ts – pitfalls to avoid

- Avoid using an aggressive tone of voice.
- Avoid exaggerated facial expressions or tone of voice, which may be open to misinterpretation.
- Avoid negative questions, which are harder to process.
- Avoid suggestive speech: *I suggest to you that...*, *I believe you told us...*, *Isn't it a fact that...* or tag questions like *You stayed at home that day, didn't you?*

Be aware that children may be more susceptible to being misled by leading questions.

- Avoid restricted choice questions.
- Avoid questions with long preambles.
- Avoid using irony, sarcasm, idiom or metaphor.
- Avoid open questions: closed questions are more likely to be understood. For example, asking *Tell me what you saw yesterday* may be too vague, leaving the individual unable to judge exactly what the interviewer needs to know. Better would be: *Tell me what you saw happen in the shopping centre around 10 o'clock...*
- Don't rely on children – even adolescents – to admit that they do not understand or cannot follow your line of questioning.

- Children – particularly those who are very young – should not generally be permitted to respond by nodding or shaking their heads: this may signal a loss of concentration.

### Other issues to take into account

- The vulnerable witness or defendant may not necessarily make eye contact or give expected signals.
- Be aware that they may have better expressive language skills than receptive language skills.
- Concept words – such as those dealing with time or spatial awareness – may pose particular difficulties. Potentially problematic questions include: *How many times?* or *Was he standing in front of you?*
- Consider whether the ‘piggy backing’ technique might be confusing.
- Be aware that responses may well be made without any understanding of the implication of what is being said. A vulnerable witness or defendant may try to please an authority figure by agreeing with the questioner.
- Some vulnerable witnesses or defendants may do all they can to conceal their lack of understanding. Both children and adults with learning disabilities may have developed ‘coping strategies’ that disguise their level of understanding. These might include nodding to show they understand, when in fact they do not. It is crucial to recognise the importance of correctly interpreting gestures, including being alert to counter-intuitive body language.
- Those with learning disabilities may not have autonomy in their personal lives, and are likely to be used to depending on others to make decisions. This dependency can manifest itself in a need for approval, and the tendency to tell others what they think they want to hear. Expressing their own feelings may be very difficult because they may have not been encouraged to think about their own needs, or supported to develop those skills.
- Be alert for echolalia (repeating or 'echoing' words or phrases that someone else has just said). This may well indicate they are merely repeating your words without understanding their meaning.
- Be alert to literal interpretation of figurative speech (such as *Can you paint me a picture of the events...* ) particularly by younger children and those within the autistic spectrum.



## National College for Teaching & Leadership

Any enquiries regarding this publication should be sent to:

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53-55 Butts Road, Earlsdon Park, Coventry, CV1 3BH

This document is also available from our website at:

[www.gov.uk/nctl/teachermisconduct](http://www.gov.uk/nctl/teachermisconduct)

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