



Case Management Discussion Practice Statement

Introduction

In order to deal with cases fairly and justly and, to the extent possible, avoid undue delay, complaints to be adjudicated by the Fitness to Teach Panel (“FtTP”) in terms of part 3 of the Fitness to Teach and Appeals Rules (the “Rules”) may be subject to Case Management Discussions (“CMDs”) and case management directions in advance of hearings. These are known as case management procedures.

The case management process will be administered by the GTC Scotland Legal and Adjudication Services Team (“LAS”). This team

This practice statement:

- Describes the general principles and purpose of case management procedures; and
- Sets out an overarching framework for how case management procedures will be applied to facilitate a more streamlined and consistent approach to the running of FtTP Hearings.

Purpose

The interests of justice are best served by a process which is simple, accessible and fair and where the issues in dispute are identified at the earliest opportunity. Those objectives can be secured by case management procedures which require:

- The Presenting Officer to set out his/her case;
- The Respondent to identify in advance those elements of the case which he or she disputes; and
- The parties to provide information to assist the FtTP in the management of the case.

This practice statement aims to help parties to engage in case management procedures.

The case management procedure is primarily intended to reduce delay, facilitate the effective running of FtTP hearings and to ensure that parties are able to participate fully in proceedings. Case management procedures aim to minimise stress on Respondents and witnesses at a hearing by setting up an effective channel of communication between parties during the pre-hearing period and seeking agreement in relation to key issues.

Case management procedures are not intended to involve consideration of the merits of a case or to test any evidence before the hearing. Similarly, in no way do they seek to encourage or compel Respondents to admit to allegation(s).

Participation

Case management procedures will be initiated in cases where it is considered beneficial to do so by the Legal and Adjudication Services Team (“LAS”)¹ in consultation with the Fitness to Teach Panel Convener (“the Convener”) and, where appropriate, the GTC Scotland Presenting Officer and Respondent. Case management will be considered beneficial in the vast majority of cases.

It will be extremely helpful for parties to participate in case management procedures and it is expected that they will do so to the fullest extent possible.

For the avoidance of doubt, the LAS is a discrete team within GTC Scotland that is responsible for administering hearing proceedings, it has no involvement whatsoever in the investigation or prosecution of a case.

Where a party fails to comply with a case management direction, this will have a detrimental impact on the hearing of the case and may cause delay as well as extra costs. This is in the interests of no-one. Non-compliance with case management directions is therefore taken very seriously. In accordance with Rule 1.11, a FtTP may take such action regarding non-compliance as it considers appropriate in respect of either the Respondent or the Presenting Officer. In respect of a Respondent specifically, an FtTP may direct that any such non-compliance be raised against him/her as a professional misconduct complaint.

Procedure

At the outset of a case, the LAS and/or the Convener may consider that in advance of a CMD it would be sensible for case management directions to be issued to the parties in writing. In these circumstances, the directions (with appropriate timescales for compliance) will be set out in a letter to each party. A CMD will then follow at an appropriate time.

No less than 7 days' notice will be provided of any CMD.

Parties will each be asked to complete a response form in advance of a CMD to set out information relating to their case and the hearing. This information is collected in advance of the discussion to help the CMD run smoothly and efficiently. The completed response forms will be shared between both parties before the CMD.

CMDs will generally take place by telephone conference.

The following parties are expected to attend a scheduled CMD:

- The Convener;
- The Presenting Officer;
- The Respondent and/or his/her representative; and
- The Servicing Officer.

A note of each CMD will be prepared by the LAS and circulated to all parties, whether or not they participated in the CMD, within 7 days of the discussion taking place. This will include any directions given by the Convener as part of, or immediately following, the CMD. The note will not be a verbatim record of the discussion.

If at any stage of the process the Respondent requests to be removed from the GTC Scotland Register, case management procedures will cease and the procedure for Removal from the Register with Consent will commence.