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## **GUIDANCE NOTE FOR WITNESSES APPEARING AT A STANDARDS COMMISSION HEARING**

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This guidance note aims to outline what you can expect at a Standards Commission Hearing if you have been asked to appear as a witness for either the Commissioner for Ethical Standards in Public Life (the ESC) or a Respondent or if you have been cited to appear by the Standards Commission.

There are three parties involved in a Hearing:

- The Hearing Panel, comprising of three Members of the Standards Commission, who after listening to evidence and submissions, will make a decision on whether the Respondent breached the Code of Conduct and, if so, what sanction should be imposed;
- The ESC or her representative. It is the responsibility of the ESC to investigate complaints that there has been a breach of a Code of Conduct and to present a case to this effect at the Hearing; and
- The Respondent or their representative. The Respondent is the person who is alleged to have breached the Code of Conduct.

### **1. On arrival**

- 1.1 **If the Hearing is held in person:** when you arrive at reception you will be directed to a room specifically set aside for you and any other witnesses. Separate rooms will be set aside for witnesses for different parties. You are not be permitted to enter the Hearing room until it is your time to give evidence. A member of the Standards Commission will collect you when the Panel is ready to hear your evidence.
- 1.2 **If the Hearing is held online:** when you join the meeting, you will be admitted from the waiting room so that Standards Commission staff can check your connectivity, resolve any technical issues and answer any queries you may have. You will then be place back in the waiting room until it is your turn to give evidence. You are not be permitted to watch the livestream of the Hearing until it is your time to give evidence. A member of the Standards Commission will admit you to the Hearing when the Panel is ready to hear your evidence.

### **2. When will you be called**

- 2.1 It is not possible to give an exact time as to when you will be called to give your evidence, as this will depend on whether there are any preliminary matters that require to be dealt with at the beginning of a Hearing and how long it may take to question any other witnesses.
- 2.2 We ask that you refrain from leaving the waiting room (other than for a comfort break) until you are called. If the Hearing Panel adjourns the Hearing for longer than 10 minutes, you will be advised of the time when you need to be back in the waiting room.

### **3. Oath or Affirmation**

- 3.1 The Standards Commission asks witnesses to confirm that they will tell the truth by swearing an oath or making a solemn affirmation before they start to give their evidence. When you join

the Hearing, you will be asked by the Chair of the Hearing Panel to remain standing (if possible) and to choose whether you wish to swear an oath or make a solemn affirmation, as follows:

Oath: "I swear by Almighty God that I will tell the truth, the whole truth and nothing but the truth."

**Or**

Affirmation: "I solemnly, sincerely and truly declare and affirm that I will tell the truth, the whole truth and nothing but the truth."

#### 4. Order of Evidence

4.1 If you are called as a witness by the ESC, your evidence will be heard in the following order:

- Evidence in Chief – the ESC or their representative will ask you questions about your knowledge of the alleged breach of the Code and the circumstances around it. The ESC or their representative may refer you to numbered documents, which will be on the witness table (or shared on screen if the Hearing is held online). You will not be able to refer to your own notes or other documents when giving evidence.
- Cross-examination - the Respondent or the Respondent's representative may then ask you questions on the evidence you have given.
- Re-examination - the ESC or their representative will have the opportunity to ask you questions on any matters raised during cross-examination.
- Members of the Hearing Panel may ask you questions at any time. The ESC and Respondent (or their representatives) may then be allowed to ask you further questions on any new matters arising as a result of any questions Members of the Hearing Panel have asked.

4.2 If you are called as a witness by the Respondent, your evidence will be heard in the following order:

- Evidence in Chief – the Respondent or their representative will ask you questions about your knowledge of the alleged breach of the Code and the circumstances around it. The Respondent or their representative may refer you to numbered documents, which will be on the witness table (or shared on screen if the Hearing is held online). You will not be able to refer to your own notes or other documents when giving evidence.
- Cross-examination - the ESC or their representative may then ask you questions on the evidence you have given.
- Re-examination - the Respondent or their representative will have the opportunity to ask you questions on any matters raised during cross-examination.
- Members of the Hearing Panel may ask you any questions at any time. The ESC and Respondent (or their representatives) may then be allowed to ask you further questions on any new matters arising as a result of any questions Members of the Hearing Panel have asked.

4.3 You must not discuss your evidence with any other witnesses involved in the case, either before the Hearing or while you are waiting to give evidence.

#### 5. Giving your evidence

5.1 It is extremely important that witnesses tell the truth at all times while giving evidence. You should listen carefully to the question and try your best to answer as accurately as you can. If you cannot answer a question because you are unclear as to what is being asked or because you cannot remember something, please say so.

5.2 When you give your evidence, you should listen carefully to each question, and try to answer it as clearly as you can. Some answers will be a simple yes or no. Other questions will need you to provide more explanation.

- If you do not understand a question, you should ask for it to be repeated or clarified.
- Please make sure that the Panel and the person asking the question can hear your answers.

- You should answer any questions honestly and accurately, to the best of your recollection. Do not guess - if you do not know the answer to a question, you should just say so.

5.3 The Hearing Panel may decline to hear evidence which is not relevant to the question of whether there has been a breach of the Code of Conduct. The Hearing Panel Chair may, therefore, intervene and prevent you from answering a question, if the Panel is of the view that your answer will not be relevant.

5.4 The party calling you as a witness should not put leading questions (i.e. questions which invite a witness to give a particular response) to you, unless they are on introductory matters or facts that are not in dispute. The Hearing Panel can choose to disregard any evidence elicited from a leading question.

5.5 When you are being cross-examined, it may be that the ESC or Respondent will dispute your account or try to undermine your credibility as a witness. The Hearing Panel will not, however, allow them to ‘badger’ you, for example by deliberately antagonising or mocking you, or by asking insulting or derisive questions in an attempt to provoke an emotional response. The Hearing Panel will ask any party doing so to desist and may prevent them from asking you any further questions.

5.6 Once you have completed giving your evidence, the Chair of Hearing Panel will confirm that you are able to step down from the witness table. You are welcome to take a seat in the public area and listen to the remainder of the Hearing (or watch the livestream if the Hearing is being held online) should you wish to.

5.7 When you have finished giving your evidence, you cannot go back into the witness waiting room or discuss the case with any witnesses who are still to give evidence.

## 6. Assistance

6.1 If you need assistance to give evidence because of physical or mental impairment, language difficulty or any other substantial reason, you should ask the party calling you to advise the Standards Commission accordingly, at least 14 days before the Hearing, so that it can put appropriate supportive measures in place prior to the Hearing (as far as is reasonably practicable).

### **GUIDANCE NOTE for WITNESSES**

Data control and version information				
Date	Action by	Version Updated	New Version number	Brief Description
15/10/19	LJ	N/A	V1.0	Introduction of Guidance
08/11/19	LJ	V1.0	V1.1	Addition of paragraphs reminding witnesses not to discuss their evidence with other witnesses.
17/11/20	LJ	V1.1	2020 v1	Revised to include references to online Hearings and possibility the Standards Commission may cite the witness.