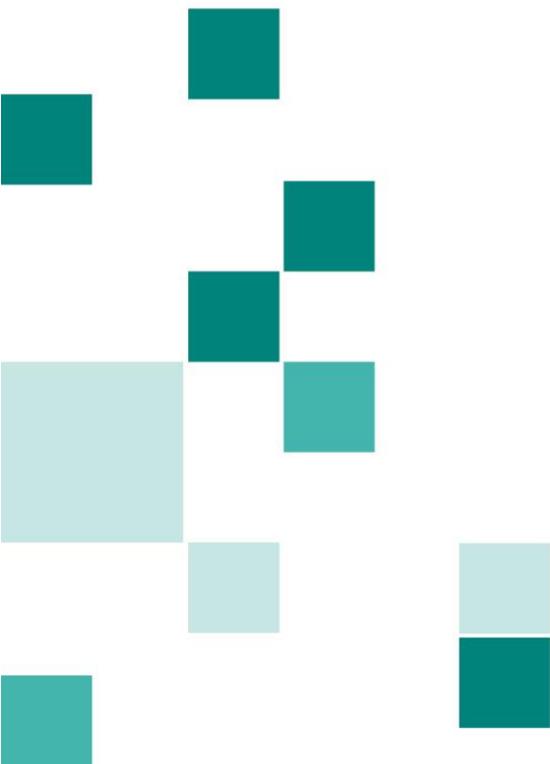


# Remote Hearings Guidance

June 2022



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# 1. Background

The overarching objectives of the Scottish Social Services Council (SSSC) involve:

- protecting the public by registering social worker, social care and early years workers
- setting standards for their practice, conduct, training and education
- supporting professional development.

Where people fall below those standards the SSSC can investigate and take action and we may cases refer cases to a Fitness to Practise Panel for consideration.

The principal function of a Fitness to Practise Panel is to consider and decide referrals and applications on the fitness to practise of workers registered with or applying to be registered with the SSSC and whether a Temporary Order should be imposed on a worker's registration.

The COVID-19 pandemic significantly impacted the SSSC hearing processes and arrangements, resulting in most Fitness to Practise Panels being held remotely. We recognise the benefits of different formats of hearing so will continue include remote hearings as an option.

Fitness to Practise Panel proceedings are governed by the Regulation of Care (Scotland) Act 2001 and the SSSC Combined Fitness to Practise Rules 2021 (2021 Rules). You should read this guidance in conjunction with both.

## 2. Purpose

This guidance for all parties involved in Fitness to Practise Panels when considering the arrangements for a hearing and whether it will be held remotely, in person or hybrid.

For the purposes of this guidance:

- remote hearing means a hearing which takes place entirely online by video or audio link
- in person hearing means a hearing at which all parties including panel members, the SSSC presenter, the worker and any witnesses are present at a physical location
- hybrid hearing means either:
  - a. a hearing where at least one of the parties is physically present for all or part of the hearing and all other parties take part remotely, or



- b. where part of the hearing takes place in person and the remainder takes place remotely, for example, witness evidence is heard in person and deliberations and reading of the decision takes place remotely.

### **3. Temporary Order and Temporary Order Review hearings**

Temporary Order and Temporary Order Review hearings will, by default, be remote hearings. Should any party want the hearing to be in person or hybrid they must contact the Hearings Team at the earliest opportunity and this will be arranged.

### **4. Impairment, application and restoration hearings**

The Chair will decide the format of impairment, application and restoration hearings at the case management meeting held before the full hearing.

In terms of the 2021 Rules, parties are required to make submissions on several matters at the case management meeting. The Chair may issue decisions and directions on matters listed in Rule 14.3 and any other matter for the purpose of facilitating the hearing of the case by a panel.

The Chair should ask parties for submissions on the format and arrangements for the hearing at the case management meeting and whether they would like the hearing to be held remotely, in person or hybrid (and if so their proposals for this). The Chair shall decide the format of the hearing at the case management meeting in terms of Rule 14.4.

Each hearing should be decided on a case-by-case basis, having considered the factors listed at paragraph 6.1 below.

### **5. During a hearing**

Where a hearing has started and a party would like to change the format, they should make a request to the Fitness to Practise Panel. The panel must consider the factors listed below when reaching their decision.



Where a member or members of the Fitness to Practise Panel would like to change the format of the hearing, they should advise the parties of this, their reasons and allow parties a reasonable time to consider their position and make submissions to the panel. The panel should consider the factors listed below when reaching their decision.

## 6. Factors for consideration

When determining the format of a hearing the following should be considered.

### 6.1 The request of the worker

If the worker asks for an in person hearing this should be arranged unless there are exceptional circumstances which mean a remote or hybrid hearing would be fairer to all parties and in the interests of justice.

### 6.2 Personal circumstances of the worker

If the worker has a disability or vulnerability that requires specific arrangements these must be considered in the decision.

### 6.3 Access to and understanding of technology.

The worker must be able to take part in proceedings effectively with the technology they have available, this includes understanding the technology that's used. Parties should also have access to an environment which allows them to take part effectively. The Hearings Team may be able to assist with provision of technology and/or an alternative venue for the worker/witness.

### 6.4 Access to advice/assistance/support for the worker

The worker must be able to have access to any advice and/or representation they require for the purposes of the hearing. Likewise, they must have access to assistance (such as an interpreter) or support to ensure the fairness of the hearing.

### 6.5 Any risks of a breach of privacy

There may be risks in allowing a hearing to take place remotely which may be overcome by holding an in person hearing. These risks may be in cases involving medical or sexual matters, vulnerable people or media attention.

### 6.6 Any features of the case which make it particularly difficult to be held remotely

These may include difficulties in identification of a worker/witness, difficulties for witnesses including arrangements to allow vulnerable witnesses to give evidence or difficulties in presenting evidence.



6.7 Any issues likely to affect the integrity, fairness or smooth running of the hearing

For example, this could include the worker taking part from home or work where he/she may be distracted by their environment.

6.8 Estimated length of hearing

Particularly lengthy hearings may benefit from some element of in person hearing to avoid screen fatigue of the worker and other parties.

6.9 Delay

Holding a hearing in person may cause delays which could reasonably be avoided by holding a remote hearing. Such delay may compromise public protection, public confidence, have a detrimental effect on the wellbeing of participants or have an adverse effect on witness evidence. Chairs must balance the interests of the worker and the need to ensure fairness of proceedings against the public interest of hearing cases as quickly as possible.

6.10 Government guidance

The hearing must comply with government guidance to ensure the safety of everyone involved.

6.11 Any other matters that may affect the smooth running and prompt completion of the case.

There may be features of a case which make it particularly difficult for it to be held remotely, for example, the number of witnesses.





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