

propertymark

WHAT TO EXPECT AT HEARINGS

TRIBUNAL PROCEDURES

A complainant may be either an external party bringing a complaint to Propertymark or Propertymark itself.

These notes are intended as guidance only and the information provided under 'What will happen at a Tribunal Hearing' should be regarded as flexible. As a hearing develops it may be necessary to take a different approach, provided the ultimate aim of achieving natural justice is always respected.

HOW WILL I BE ADDRESSED AND HOW SHOULD I ADDRESS OTHERS?

We go further than first names only, e.g. David Oliver, Christina Jones, or Mr Oliver and Miss Jones.

WHO WILL BE THERE?

The Tribunal

The Tribunal comprises of two practitioner members, one acting as chairman of the Tribunal and the other will have experience of the relevant property discipline. There will also be one lay member.

The role of the Tribunal is to ascertain the legitimacy of the complaint brought before the Tribunal and whether there has been a breach of the standards.

Propertymark's Case Manager

The Case Manager will present the case against the member(s).

Propertymark's Head of Regulation

The Head of Regulation will ensure fairness, including adherence with the following order of events.

The member is strongly advised to attend hearings and may bring witnesses subject to providing advanced notice. All references to members include their representatives. Attendance of witnesses is dependent upon advance notice being provided. If member(s) or witnesses do not attend then it may be necessary to skip some of the stages outlined below.

WHAT WILL HAPPEN AT A TRIBUNAL HEARING:

- 1** The Head of Regulation will invite all those in the room to introduce themselves.
- 2** The Chairman of the Tribunal will ask the Case Manager to present a summary of the case, to read out the schedule of alleged breaches and introduce tabled papers.
- 3** If the member attends they will be asked to admit or deny each breach. If a case involves more than one member then each member will be asked to enter their pleas separately. If the allegations are admitted, then proceed to 18.

If the member is absent then pleas must be entered on their behalf in order for the case to proceed. The member may have admitted some or all of the alleged breaches in correspondence, in which case the Head of Regulation will enter appropriate pleas on their behalf. However if the member has not given any indication prior to the hearing then the Head of Regulation will deny all allegations on their behalf.
 - a. If the member has admitted every alleged breach in correspondence then the Head of Regulation will admit each breach on behalf of the member, then proceed to 18; or
 - b. If the members has admitted some breaches but denied others, then the Head of Regulation will enter appropriate pleas; or
 - c. If the member denies every breach, or has made no prior indication, then the Head of Regulation will deny all breaches on the member's behalf.
- 4** Where the member denies breach(es) either in person or in writing the Case Manager will present the case against the member.
- 5** The Case Manager may question the complainant and/or may question any witnesses for the complainant.
- 6** The member may question the complainant and/or any witnesses brought by the complainant.
- 7** The Case Manager may re-examine the complainant, and any witnesses brought by the complainant (if present).
- 8** The Chairman will then ask if any of the Tribunal have any questions to put to the complainant and/or their witnesses.
- 9** The Chairman will invite the member to present their case.
- 10** The Case Manager may ask questions of the member and/or their witnesses.
- 11** The complainant may then question the member and/or their witnesses.
- 12** The member is entitled to re-examine the complainant and/or their witnesses.
- 13** The Chairman will then ask if the members of the Tribunal have any questions to put to any party who has given evidence.
- 14** The Case Manager will then sum up.
- 15** The member may sum up briefly, but cannot introduce any new evidence.
- 16** The Tribunal deliberates, in camera after asking everybody to leave the room, although the Tribunal may ask the Head of Regulation to provide them with technical advice.

- 17** When the Tribunal have reached their conclusion, all parties will be invited back when the Chairman will announce their decision as to whether they find breach(es) proven, or announce that they wish to reserve their judgment.
- 18** If the member has admitted the breach(es) or the Tribunal find the breach(es) proven, the Chairman will ask the Case Manager if anything is known in respect of previous non compliance by the member, including any membership record and any history of non compliance.
- 19** The Chairman will then request any plea in mitigation from the member, and the Tribunal may wish to ask consequential questions, but if the member is not in attendance then the Chairman will ask the Head of Regulation to read out any plea in mitigation received in advance.
- 20** The Chairman will then request an impact statement from the complainant, and the Tribunal may wish to ask consequential questions. If the complainant is not in attendance then the Chairman will ask the Case Manager to read out any impact statement received in advance.
- 21** The Chairman of the Tribunal will then, once again, ask everybody to leave the room whilst the level of sanction is considered. Please see section 4.4 of the Disciplinary Procedures, plus the Sanctions Policy and Publications Policy for details of the range of possible outcomes. When the members of the Tribunal have reached their conclusion the parties are then invited to return and the penalty will be announced, or reserved.
- 22** The hearing will be recorded and members and complainants can request a transcript on payment of the relevant fee.
- 23** See section 5 of the Disciplinary Procedures concerning member's rights to appeal.

WHAT WILL HAPPEN AT AN APPEAL HEARING:

- 1** The Head of Regulation will invite all those in the room to introduce themselves.
- 2** The Chairman of the Tribunal will ask the member to present their submission to the Tribunal.
- 3** The Chairman will then ask any of the Tribunal if they have any questions to put to the member.
- 4** The Case Manager may wish to confer with the complainant (if present) prior to directing the panel to any relevant evidence and making a closing statement.
- 5** The member may respond and may make a closing statement.
- 6** The Tribunal deliberates, in camera after asking everybody to leave the room, although the Tribunal may ask the Head of Regulation to provide them with technical advice.
- 7** When the Tribunal have reached their conclusion, all parties will be invited back when the Chairman will announce their decision as to whether they uphold or reject the appeal against the findings and/or penalties and any variance to those penalties.
- 8** The hearing will be recorded and members and complainants can request a transcript on payment of the relevant fee.