

WITNESSES - THE INFORMAL HEARING

The Victorian Institute of Teaching (the Institute) may hold an informal hearing to determine whether a registered teacher has engaged in misconduct. Misconduct is defined in the *Education and Training Reform Act 2006* as conduct occurring in connection with the practice of teaching that is of a lesser standard than a member of the public or members of the teaching profession are entitled to expect from a reasonably proficient teacher.

The evidence of witnesses plays an important role in the inquiry process of the Institute. A witness may be asked to give evidence at three different stages of the inquiry process: the investigation, the informal hearing, and the formal hearing.

NOTICE OF THE HEARING

The registered teacher and the complainant will be sent a notice of the informal hearing which provides the following particulars:

- the nature of the hearing and any allegations made against the registered teacher
- the date, time and place of the hearing
- that the teacher may elect to have the matter determined by a formal hearing instead of an informal hearing (for further details see the brochure entitled “Formal Hearings”)
- that there is no right to legal representation at the hearing but the teacher is entitled to be present and to make submissions and to be accompanied by another person
- that the hearing is not open to the public
- a list of the findings that the panel can make.

THE PANEL

The Institute appoints a Panel to conduct the informal hearing. The Panel consists of at least three people, of whom one must be the Chairperson of the Panel and a member or former member of the Institute Council and one a registered teacher.

THE CONDUCT OF THE HEARING

If you give evidence at the informal hearing you will be advised by letter of the date, time and place of the hearing and may be asked to bring any relevant documents.

The procedure at the hearing is in the discretion of the panel and must be conducted with as little formality and technicality as possible. Although the panel is not bound by the rules of evidence and may inform itself as it thinks fit, it is bound by the rules of natural justice (for further details see the brochure entitled “Rules of Natural Justice”).

The Chairperson of the panel will introduce the panel members, explain the process and outline the issues to be addressed. The teacher may make written and oral submissions to the panel and provide any further documents to assist the panel in its deliberations.

The complainant and other witnesses may attend to give evidence. Witnesses will wait outside the hearing room until asked to give evidence. Witnesses will give their evidence and may be questioned by the panel. Evidence is not given on oath.

PREPARING FOR THE HEARING

If you need an interpreter, please contact the Institute before the day of the hearing. Think about the events about which you will be giving evidence and try to remember 'who', 'what', 'where' and 'when' in relation to those events.

Remember to take any relevant documents with you to the hearing. You should also read any statements you have made. The Institute will send you a copy of the statement you made to the Institute before the hearing. You should not discuss your evidence with other witnesses.

You may have to wait for your turn to give evidence, so you may like to take something to read and something to eat or drink with you to the hearing.

THE HEARING

When you arrive at the Institute, you should go to the reception area to be escorted to a witness room.

You are not allowed to sit in the hearing room before you give your evidence. You will be asked to leave the room after you have given your evidence.

When you are called to give your evidence you will be directed to sit at one end of a table. Also around the table will be the members of the panel, the teacher and any person accompanying the teacher.

You may be asked questions by the members of the panel and the teacher. When giving your evidence remember: to listen carefully to the question - if you do not understand a question, ask for it to be repeated or explained; if you are not sure about an answer to a question, just say so – do not guess the answer; speak clearly and slowly; if you need a break - tell the members of the panel.

EXPENSES

The Institute's Council may approve expenses associated with witnesses giving evidence at a hearing. Witnesses may be entitled to: accommodation allowance if they are required to stay overnight for the hearing, meal allowance, travelling allowance and an allowance for loss of earnings. You should contact the Institute for further information about expenses.

THE PANEL'S DECISION

The panel may make a finding that the teacher has not engaged in misconduct.

If the panel finds that the teacher has engaged in misconduct the panel may make one or more of the following determinations:

- that the teacher be cautioned
- that the teacher be reprimanded
- that any condition be placed on the teacher's registration including a condition:
 - i) that the teacher undertake and complete specified further education or training within a specified period; or
 - ii) that the teacher undergo counselling.
- that the matter be referred to a medical panel hearing if the panel is of the opinion that the teacher's ability to teach is seriously affected by a physical or mental impairment (for further details see the brochure entitled "Medical Panel Hearings")
- that the matter be referred to a formal hearing if the misconduct is of a serious nature (for further details see the brochure entitled "Formal Hearings").

Although the panel may make a decision on the day of the hearing it will often reserve its decision. This is to allow sufficient time for the panel to consider all the evidence and to prepare its reasons.

The complainant, teacher and the teacher's employer will be informed of the panel's decision.

Review by the Victorian Civil and Administrative Tribunal

A registered teacher who disagrees with the decision of the panel has 3 months to request a review by the Victorian Civil and Administrative Tribunal. If you require information about this process please contact the VCAT on 03 9628 9755.

FURTHER INFORMATION

The Institute also has other information brochures available on:

- complaints
- an employer taking action against a teacher
- the investigation
- the formal hearing process
- appeals to the Victorian Civil and Administrative Tribunal
- witnesses
- sexual offences
- indictable offences
- the rules of natural justice

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