

Farriers Registration Council



Established under the
Farriers (Registration) Act 1975

Your Disciplinary Hearing

**A guide to assist Registered Farriers with
preparation for a disciplinary hearing**

Introduction

This short guide sets out what to expect when a complaint against you has been referred to the Disciplinary Committee of the Council (the Committee). The purpose of the guide is to assist you in preparing for your hearing, and provides information about the disciplinary process: please note that the Farriers Registration Council (the Council) cannot provide you with legal advice, and you are strongly advised to seek professional legal advice at the earliest opportunity, and certainly before your hearing.

When will my hearing take place?

You, or your legal representative if you have appointed one, will be contacted by solicitors representing the Council about potential dates for the hearing. Dates will be confirmed as soon as it practicable to do so.

At least 28 days in advance of your hearing you will receive a Notice of Inquiry which will be sent to your registered address. This notice will: confirm the details of the allegations against you (referred to as 'the charges'); provide the contact details of the Council's solicitor; confirm the date, time and location of the hearing; confirm your right to be present and to be represented at the hearing to answer the charges; confirm that the hearing may proceed in your absence, and that the Committee may hear and make a decision on the charges, including imposing a sanction in your absence; and confirm the process for applying for a postponement. Copies of the Farriers (Registration) Act 1975 (as amended) and the Farriers Registration Council Disciplinary Committee (Procedure) Rules 1976 will be enclosed with the Notice of Inquiry for your information.

Do I have to attend my hearing?

You are not obliged to attend the hearing but it is in your interests to participate fully in order to have your say in respect of the allegations made against you. If the Committee is satisfied that you are aware of the proceedings and have chosen not to participate in the process, it has the power to hear and decide upon the allegations in your absence, and this may include imposing a sanction, which could include directing that your name be removed or suspended from the Register.

How can I prepare for my hearing?

You should start preparations for your hearing at the earliest opportunity, and you are advised to seek professional legal advice. In advance of the hearing you will be asked by the Council's solicitor whether you agree with or wish to admit to any or all of the alleged facts. Any admissions you may make in advance of the hearing will be taken into account by the Committee, and could mean the length of the hearing may be reduced as less time may be needed to consider this evidence at Stage One of the hearing.

You or your legal representative will receive a copy of the Council's Inquiry Bundle, which contains the material which the Council proposes to use at the hearing, and the Unused Material Bundle, which contains other documents that the Council does not propose to use. Where the Council has produced statements from witnesses you will be asked whether you agree with those statements, or whether you require the witnesses to appear at the hearing; you or

your legal representative will have an opportunity to put questions to witnesses, as will the Council's solicitor and members of the Committee.

The Council's solicitor will request that you or your legal representative provide copies of any statements or other evidence that you propose to use at the hearing in response to the allegations. You should also provide statements from any witnesses if you wish to rely on their evidence; and you should make arrangements for those witnesses to attend, as they may be required to do so by the Council and/or the Committee.

Hearings will usually start promptly at 9.30am and this will be confirmed in the Notice of Inquiry. You should plan to arrive 30 minutes in advance of the start time so that you can prepare yourself before the proceedings begin, and ask any preliminary questions you or your legal representative may have.

Do I have to be legally represented?

You do not have to be legally represented; you may represent yourself if you wish to do so. The Rules state that you may be represented by Counsel or Solicitor or, if you wish, any officer or member of any organisation of which you are a member or by any member of your family.

It may also be that you will be allowed to choose someone else to assist you during your case, known as a 'McKenzie friend'. You should ask the Committee (preferably in writing in advance) if you wish to do so. A McKenzie friend may not be legally qualified, but can offer moral support, take notes and assist you with your

paperwork during the hearing, and quietly offer advice to you. A McKenzie friend cannot usually speak or answer questions on your behalf at the hearing, or examine witnesses. There may be drawbacks to appointing a McKenzie friend and you should take time to research what a McKenzie friend may and may not do on your behalf.

What happens at the hearing?

Your hearing consists of three successive stages. However, what the Committee decides at each stage will determine whether the hearing needs to progress to the next stage.

Stage One

Stage One is when the facts (the charges) alleged are considered. The Council's solicitor will present the charges and you or your legal representative will have an opportunity to respond as to whether any or all of the charges are admitted. If all of the charges are admitted the Committee will decide whether to accept the admission and move to the second stage of the hearing, otherwise the Council's solicitor will present the Council's case for the allegations which are not agreed.

Witnesses may be called by the Council and by you, and you or your legal representative will have an opportunity to put questions to those witnesses, as will members of the Committee. All witnesses (including yourself if you choose to give evidence) will be asked to take an oath or affirmation to tell the truth.

You or your legal representative will have an opportunity to present your case, and you may choose to give evidence presenting your view

of the facts alleged. You may have witnesses to support your view; the Council's solicitor and the Committee will have an opportunity to put questions to any witness you present.

It is the Council's task to satisfy the Committee that the alleged facts are proved to the criminal standard. In other words, members of the Committee must be sure that the facts are proved as alleged.

The Legal Assessor overseeing the proceedings may offer legal and procedural advice to the hearing, and the Committee will retire to decide in private whether the Council has proved the facts in question. When a decision is reached the Committee will return and announce its findings. If none of the facts are proved the hearing will end, otherwise the hearing will proceed to the second stage.

Conviction cases

Where it is alleged that you have a conviction for an offence involving cruelty to animals, Stage One will determine whether you have such a conviction, and if this is established the Committee will go straight to Stage Three.

Stage Two

If Stage Two is reached the Committee must decide whether the facts now proved or admitted at Stage One amount to serious misconduct in a professional respect. You or your legal representative will have an opportunity to admit whether the facts proved or admitted amount to serious misconduct.

The Council may make submissions on the matter of serious misconduct. You or your legal representative may also make submissions.

It is a matter for the judgment of the Committee whether any or all of the facts proved amount to serious misconduct in a professional respect.

The Legal Assessor overseeing the proceedings may offer legal advice to the hearing, and the Committee will retire to decide in private whether the facts proved or admitted at Stage One amount to serious misconduct in a professional respect. When a decision is reached the Committee will return and announce its decision. If the Committee finds that none of the facts amount to serious misconduct the hearing will end, otherwise the hearing will proceed to the third stage.

Stage Three

If Stage Three of the hearing is reached the Committee will decide what sanction, if any, should be imposed.

The Council may make submissions on any previous findings against you, and will provide a short summary of your regulatory history to the Committee; this may include the date you were first registered, whether you are an Approved Training Farrier, and whether you have been compliant with Council policies such as those in respect of Continuing Professional Development (CPD) and submission of an Annual Return (AR).

It is not Council policy to recommend or seek a particular sanction in any case, the Council takes the view that such decisions are for the

judgement of the Committee. However, the Council may draw the attention of the Committee to any aggravating features of the case.

You or your legal representative may make submissions in mitigation, which may include submitting character witnesses or references. If you choose to speak to the Committee at this point, members of the Committee may also choose to ask questions of you.

The Committee will retire to decide in private whether or not to impose a sanction. The sanctions available to the Committee include to:

- make no direction
- postpone judgment until a later date set by the Committee
- issue a reprimand for your actions, or a warning as to your future conduct
- suspend your registration for a specified period of time
- direct that the Registrar should remove your name from the Register.

The Committee will consider each of the sanctions in turn, beginning with the least restrictive, in order to determine the appropriate and proportionate sanction in all the circumstances. The purpose of any sanction is not to punish you but to protect the welfare of horses, members of the public, and the reputation of, and/or public confidence in, the farriery profession and the FRC as a regulator.

When a decision is reached the Committee will return and announce its decision along with reasons for its decision. The disciplinary hearing will then close.

What happens after the hearing?

In the days following the hearing you will receive a written Notice of Determination from the Council's solicitor, which will formally confirm the decision of the Disciplinary Committee.

If a suspension or removal from the Register has been directed this will not take effect until after the period for the submission of any appeal has closed. Appeals must be lodged with the High Court or, in the case of farriers resident in Scotland, with the Court of Session within 28 days of being notified of the decision. The judgment will not take effect until the appeal period has expired or, if an appeal has been lodged, until the outcome of that appeal has been determined.

Will the outcome of the hearing be published?

Yes. Decisions of the Disciplinary Committee must be delivered in open session for the benefit of the public. In addition the Council will publish the determination and decision of the Committee on the Council website, in the Council journal (the Bulletin) and by way of a press release.

If you have given evidence that may be considered sensitive, such as in respect of minors, a medical condition or other personal circumstances you may apply to the Committee for those elements not to be heard in public (and therefore not published). Where you enter such evidence you should be prepared to do so in writing including supporting documents, such a letter from a doctor or other professional person.

Who will be present at the hearing?

Disciplinary hearings are open to the public and to the media (unless the Committee has directed that any part of it is heard in private), and the following will be present:

- you and any legal representative you have instructed
- the Council's solicitor and/or barrister, who will present the FRC's case
- the Disciplinary Committee panel. The Committee operates independently of the Council and at least five people will sit on the panel to hear the case, of which at least one will be a Registered Farrier.
- the Legal Assessor, who will offer legal and procedural advice to the hearing. Although the Legal Assessor will sit with the Committee during its private deliberations, they are not decision-makers and as such will not take part in any decision-making process undertaken by the panel members.
- witnesses for either your case or that of the Council
- a stenographer or shorthand writer, who will take a verbatim record of the hearing
- Council staff, who will facilitate the practical aspects of running the hearing
- members of the public, which may include members of the press, who may observe the hearing, but cannot participate in any way.

What should I do now?

You are strongly advised to begin your preparations as soon as possible, and this should include seeking professional legal advice. If you do not currently have a solicitor you may wish to contact your professional insurer, a professional association such as the British Farriers & Blacksmiths Association (BFBA) or Citizens Advice. Please note that while support organisations may offer you advice they have no authority to intervene in the conduct of the case, nor should they attempt to approach Council witnesses, members of the Council or the Disciplinary Committee.

You should prepare to correspond with the Council's solicitor, or ask your legal representative to do so. Contact details are provided in the letter notifying you of the decision of the Investigating Committee to refer the matter to the Disciplinary Committee, or you can contact the FRC office for details.

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