Insurance Council
BRITISH COLUMBIA

Guidelines for Witnesses at a Hearing

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The Hearing

In accordance with the *Financial Institutions Act* (the "Act"), Council conducts hearings on matters pertaining to discipline, licence conditions, and in situations where Council has refused to issue a licence to an applicant.

The hearing is overseen by the hearing committee (the "Committee"). After the hearing concludes, the Committee deliberates to make findings of fact and law, and to reach a determination as to the disposition of the matters at issue at the hearing.

Who can be a Witness?

Witnesses can be any individual that has specific information or direct knowledge about the matter which the hearing will be conducted.

What to Expect?

A hearing is similar to a court proceeding. It is a formal process where evidence is introduced either by way of documents or through in-person examination and cross examination of witnesses. Documents that are entered as evidence for the purpose of the hearing are referred to as exhibits.

Council and the Committee each retain separate, independent counsel for the hearing. The Applicant/Licensee may or may not be represented by legal counsel. As a witness, you can expect that you will be asked questions by legal counsel and the Applicant/Licensee, if they do not have a lawyer. You may also be asked questions directly by the Committee.

You can expect to be questioned on your knowledge or information relating to the matter being heard by the Committee. You may also be questioned on written or verbal statements you made prior to the hearing. You may be questioned or asked to review and discuss exhibits as part of your testimony. If you swore an affidavit in relation to the matter at issue at the hearing, there may be circumstances where it is appropriate to have you, the person who swore or affirmed the affidavit, to be called as a witness should the Applicant/Licensee or Council's legal counsel wish to cross-examine you on the contents of the affidavit.

At the hearing, the party who requested that you be a witness will typically ask you questions first. This is called direct examination and the usual practice requires the person examining you to ask "open-ended" questions. An "open-ended" question is different from a "leading question", which is a type of question in which the examiner can suggest an answer to the witness.

After your direct examination, the other party may ask you questions. This is called cross-examination. The scope of questions allowed in cross-examination is quite broad and is not limited to only the areas covered in your direct examination. This means that you may be asked a wide range of questions. In cross-examination, it is typical to be asked leading questions (oftentimes questions that require yes or no answers). The Committee may at its discretion limit cross-examination where it is satisfied that the cross-examination has been sufficient to disclose fully and fairly the facts in relation to which evidence has been given. Following cross-examination, you may be re-examined by the party that called you as a witness but only on new matters raised during cross-examination that were not addressed in your direct examination.

Receiving a Subpoena

The Committee may subpoena witnesses to give evidence under oath at a hearing, or to produce records as evidence. A witness who fails or refuses to comply with the requirements of a subpoena may be found in contempt in accordance with the procedures set out in the Act.

Is the Hearing Open to the Public?

The presumption is that the hearing will be open to the public. However, if the Committee considers that a public hearing would be unduly prejudicial to any person, the Committee may order that the public be excluded from all or part of the hearing.

A court reporter records the proceedings of the hearing. This means that evidence you give will be recorded and transcribed by the court reporter. The hearing may also be audio-video recorded.

Telling the Truth

Before a witness gives evidence at the hearing, he or she must agree under oath to tell the truth.

Witnesses can take an oath to tell the truth by placing a hand on a religious text (like the Bible) and swearing that the evidence they give will be true. Alternatively, witnesses can choose to make a solemn affirmation that they will tell the truth. In this case, there is no religious meaning to the commitment to tell the truth.

The Committee has the power to administer oaths and affirmations for the purpose of any of its proceedings.

Preparing for Attendance at the Hearing

The party who has asked you to be a witness at the hearing may ask to meet with you prior to the hearing to help you prepare for what to expect. You should not be given "scripted" answers to questions in the guise of preparation or influenced to change your evidence. As noted above, a witness must give an oath to tell the truth before testifying and the most important thing to remember is to be truthful and honest in your testimony.

Hearing Etiquette

You are not required to wear a suit or tie to the hearing. Most witnesses choose to dress in comfortable business attire. Remember, the hearing is a formal process much like a court proceeding. If the hearing is in person, give yourself plenty of time to travel to the hearing. You should arrive at least 15 minutes before the time you are scheduled to testify. If the hearing is online, make sure you have tested your equipment, video, and sound quality in advance to minimize the risk of technical interruptions. In either case, be respectful to all parties in the hearing and maintain composure, stay collected and objective while being questioned.

What if I need an Interpreter or Medical Accommodation?

If you require an interpreter or medical accommodations to attend the hearing, inform the party who asked you to be a witness, or a Council staff member as soon as possible prior to the hearing so that appropriate accommodations can be made, if available. To ensure that these accommodations can be made, please make sure to provide reasonable notice of any required accommodation in advance of the hearing.