

Code of Conduct

Members of the Medical Council

Updated and approved by the Medical Council at the meeting held on the 19th September, 2013

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1. Introduction

The primary role of the Medical Council (hereinafter referred to as ‘the Council’), as set out in Section 6 of the MPA 2007, is:

“to protect the public by promoting and better ensuring high standards of professional conduct and professional education, training and competence among registered medical practitioners”.

This Code of Conduct describes how Council Members perform duties in pursuit of the Medical Council’s role.

1.1 Intent and Scope

In order to fully fulfil the role of the Medical Council and enhance its reputation it is essential that each Council Member strives to perform his/her duties in accordance with the highest standards of integrity, honesty, fairness, respect, loyalty, confidentiality and independence. This Code of Conduct has been established to promote and encourage these standards. It signals the Medical Council’s commitment to operating to the highest level of business ethics and personal integrity in all types of transactions and interactions. The Code is published and publicly available; this offers clarity to the public, the medical profession and all Medical Council stakeholders as to the standards of conduct they can expect from the Council and outlines the requirement for integrity, loyalty, confidentiality and fairness in all aspects of the Council’s business.

The Code applies to Members of the Council and is designed to outline the standards which the Council applies to all of its activities and to set out clear policies and principles that must be applied by all Council Members.

Each Council Member has an obligation to know and understand not only the policies contained in the Code, but also the values upon which they are based. In addition, Council Members have an obligation to comply with the letter and spirit of the Code and help others do the same.

The Code does not purport to provide for all situations which may arise but sets out the main elements of a code that includes the requirement that Council Members should act in accordance with its overall ethical intent. This Code is not a substitute for a Council Member’s responsibility and accountability to exercise good judgement and obtain guidance on proper and appropriate business conduct. The Code is additional to and does not in any way restrict the legal obligations of Council Members. The Code of Conduct also applies to members of committees and other working groups which the Council may establish from time to time.

The Code is not intended to restrict or restrain Council members unduly in their tasks; they should be viewed as assisting them in understanding the nature of their responsibilities and in avoiding any difficulties which might arise for them.

1.2 Objectives

The key objectives of this Code of Conduct are:

- To set out an agreed set of ethical principles by which the Council conducts its business
- To support and promote the continuous demonstration of a commitment to the highest standards of conduct and ethical behaviour
- To set out the means by which these principles are to be given practical effect
- To outline for the public, the medical profession and all other stakeholders the standards of behaviour they can expect in their dealings with the Council
- To promote confidence and trust in the Council
- To prevent the development or acceptance of unethical practices.

1.3 Statutory and Regulatory Context

This Code requires Council Members to act at all times in accordance with the law and, in particular, with but not limited to the following:

- The provisions of the Medical Practitioners Act 2007, as amended (MPA 2007);
- The Ethics in Public Office Act 1995 and 2001;
- The relevant provisions of the Companies Acts as amended from time to time;
- The Code of Practice for the Governance of State Bodies (2001) as amended from time to time;
- and,
- Framework for Corporate & Financial Governance of Regulatory Bodies under the aegis of the Department of Health & Children (2006).

2. Persons to whom this Code applies

2.1 Deciding whether the code applies to you

This Code applies to all Council Members and to any persons engaged by the Council to assist in carrying out the Council's functions, including those participating in Committees and Working Groups. The Council will help all Council Members abide by this Code and give support where appropriate so that these principles are not compromised. Where necessary, training will be provided to help Council Members understand their obligations and responsibilities.

2.2 The Code and Medical Council employees

A complementary Code of Conduct for employees has been prepared by the CEO and reflects all the principles applicable to Council Members, including the avoidance of conflict of interest and the acceptance of gifts. This ensures that the organisation is governed and managed in accordance with a common set of ethical principles and to the highest standards of conduct and ethics.

2.3 Relating this Code to Council Policies

While this document provides a broad range of guidance on ethical behaviour and business conduct, it should not be read in isolation. It should be read in conjunction with the specific policies of the Council. These policies, which cover areas including IT, Health & Safety, Data Protection and many other topics, can be found on the Council's internal shared drive.

3. Principles and action to ensure high standards

This Section sets out the key principles on which this Code of Conduct is based. Having described the principles, the Code then explains how these principles are put into action by Council Members. The principles and actions set out in this Code help ensure high standards of conduct and ethics are continuously demonstrated by Council members.

3.1 General Principles

Council Members strive to perform their duties in accordance with the highest standards of integrity, honesty, fairness, respect, loyalty, confidentiality and independence and in doing so enhance the reputation of the Council.

These general principles are illustrated below.



Apart from the primary responsibility of Council Members to fulfil all regulatory and statutory obligations imposed on the Council by legislation and other statutory instruments, as individuals, Council Members will be expected to:

- Commit to making use of their reasonable endeavours to attend Council meetings on a regular basis and be well prepared by reading relevant papers in advance;
- Contribute to decision-making and share responsibility for the Council's decisions;
- Make decisions based on the public interest. Council Members will not act for personal gain or for the benefit of friends, their families or others;
- Make objective decisions on the merits of issues put before them;
- Participate in Council activities diligently, honestly and courteously at all times;
- Contribute to the work of committees, working and advisory groups that may be established from time to time by the Council;
- Ensure the Council conducts its business fairly;
- Comply with employment and other relevant legislation insofar as it pertains to the Council;
- Attend training events and keep up to date with subjects relevant to the Council's work;
- Represent the Council at meetings and events when nominated to do so and,

- Declare any perceived conflict of interest in advance of any agenda item at Council meetings or committee/working group meetings.

Furthermore Council Members need to be committed to putting in place and maintaining controls to prevent fraud including, adequate controls to ensure compliance with prescribed procedures. These procedures include, but are not limited to, compliance with prescribed levels of authority for the sanctioning of any relevant expenditure and in addition the procedures in place for the claiming of expenses in respect of any involvement in Council business.

3.2 Principles in Action

The Code now describes how these principles are applied in action by the Medical Council.

3.2.1 Integrity & Honesty

Each Council Member's behaviour impacts on the reputation of the Council. Council Members are expected to act with integrity and honesty in carrying out their responsibilities in compliance with the principles set out in this Code. This is a key principle and should govern each Council Member's actions and decisions.



Examples are now provided of how integrity and honesty are applied in action.

Recognising and managing conflict of interest

This section should be read in conjunction with Appendix 3 (Procedure for dealing with conflicts of interest by members of the Medical Council) of the Standing Orders document.

A conflict of interest arises when a Council Member's interests or opportunity for gain or profit are, or could be interpreted as being, in conflict with those of the Council. Any interests of a Council Member's family or a person or body connected with the Member which could involve a conflict of interest should also be disclosed. It is worth noting that for this purpose, a spouse, civil partner, parent, brother, sister, child or step child are counted among those persons.

All Council Members must confirm their commitment to the disclosure of any employment and/or business interests which may be – or be seen to be - in conflict, or in potential conflict, with the objectives and activities of the Council.

Council Members are expected to ensure that:

- They disclose the interest and the nature of interest;
- They do not influence or seek to influence a decision to be made in relation to a matter;
- They absent themselves from any meeting or part of a meeting at which the conflict of interest or potential conflict of interest is discussed;
- They do not take part in any deliberation of the Council or a Committee relation to a matter where a conflict of interest or potential conflict of interest arises;
- They do not vote on a matter where a conflict of interest arises.
- The Council's resources are used in pursuit of Council business and are not used for personal gain, directly or indirectly. The Council's financial accounts and reports accurately reflect performance and are not misleading or designed to be misleading;

The disclosure of a conflict of interest or potential conflict of interest will be recorded in the minutes of the meeting at which it is considered.

Council Members must also comply with the requirements specified in Section 30 of the Medical Practitioners Act 2007 and Ethics in Public Office Acts (1995 & 2001).

Council Members shall furnish to the Secretary of the Council details relating to his/her employment and all other business interests including shareholdings, professional relationships etc. which could involve or be perceived to involve a conflict of interest or materially influence the Council Member.

Where it is relevant in any matter that arises, each Council Member will keep the Secretary of the Council advised of all relevant changes in their circumstances so as to ensure that these disclosures are up-to-date at all times.

The onus is on each Council Member to identify an actual or potential conflict of interest and to take

appropriate action to manage the conflict in favour of their public duty.

Misusing Opportunity

Council Members will refrain from using the Council's reputation, resources or time for personal gain or for the benefit of persons/organisations unconnected with the body or its activities.

Lobbying

Council Members will avoid taking any action or making any commitment which might indicate their acceptance of the lobbyist's position.

Procurement

The Council has approved tendering and purchasing procedures, as well as levels of authority for the approval of expenditure. These procedures must be strictly adhered to. They are designed to provide an objective framework to assess the products and value for money of suppliers, and to provide the Council with goods and services at competitive prices. The tendering and contract procedures are in line with EU Public Procurement Directives.

Gifts, Sponsorship and Hospitality

Council Members may not accept gifts, benefits, sponsorship or hospitality of any kind that could be deemed to influence and/or secure favourable treatment from the individual Council Member or from the Council as a whole.

Council Members shall not seek, accept or derive, at any time during Membership of the Council or thereafter, any unauthorised profit or benefit, arising from Membership of the Council, other than such remuneration or emoluments, if any, directly and properly payable by the Council. For further guidance in relation to this matter members can refer to the Council's Policy on Gifts and Hospitality.

Reporting

The Council is committed to ensuring that its accounts and/or reports accurately reflect its business performance and are not misleading or designed to be misleading. Internal and external audits are used to ensure accurate reporting on business performance.

3.2.2 Fairness and Respect for others

Council Members are, at all times, committed to fairness and respect in the Council's regulatory and business dealings and in dealings with each other, with the Council's staff, with those engaged by the Council to assist in its work and particularly with registrants, whose individual cases the Council must consider.



Examples are now provided of how fairness and respect are applied in action.

In respect of other members of the Council

As well as being responsible for their own conduct, Council Members also have a duty to treat their colleagues and others with courtesy and respect and have due regard for their safety, health and welfare.

In respect of interactions with either doctors or members of the public

Council members will also treat all other parties with courtesy and respect and must not advocate or act on behalf of any doctor or member of the public involved in any Council proceedings. Council members afford due process in the conduct of Medical Council activities.

In respect of organisations seeking recognition from the Council

It is unacceptable for members of the Council to advocate or act on behalf of representatives of organisations who are seeking recognition or approval from the Council under the provisions of the MPA 2007. This includes the Council's recognition of specialist programmes and training bodies.

In respect of staff and operational issues

Council Members should not in general become involved in operational issues. This relates in particular to dealing with enquiries from registrants or fitness to practise matters but may also involve other aspects of Council business. Note, however, the provision in Section 2.10 of Standing Orders, which provides for strong lines of communication between Committees/Working Groups/Chairs and supporting staff. These areas will necessarily lead to the involvement of Council members at operational levels with Council staff.

Individual members of staff do not take instructions from Council members outside of the Terms of Reference of Council and Committee work. If a Council member has concerns about the conduct of a member of staff they should raise the matter with the Chief Executive. If they have concerns about the Chief Executive, they should raise the matter with the President.

In respect of suppliers to the Council

Suppliers and colleagues must be treated fairly and with respect at all times. All suppliers are entitled to fair treatment and should each have a reasonable opportunity to compete successfully for business.

In the working environment

The Council is committed to maintaining a work environment that is free from discrimination or harassment and to providing a safe working environment for all its Members and staff. The Medical Council will not accept discrimination of any form including sex, marital status, family status, age, sexual orientation, disability, race, creed or membership of the Traveller community. All persons connected with the Council must avoid any practice or conduct in the workplace which could be considered discriminatory on the grounds of race, religion, or sex. All persons connected with the Council must also avoid any practice or conduct in the workplace which could be considered harassment of any kind.

Council Members are expected, both personally and professionally, to behave in the working environment in a fashion that reflects positively on the Council.

External environment

Council Members are expected, both personally and professionally, to behave in the external environment in a fashion that reflects positively on the Council. The Council strives to ensure that community concerns in relation to the environment are fully considered and will continue working to minimise any detrimental impact which the operations of the Council may have on the environment. In that regard, Council Members also acknowledge their duty to continually develop awareness of the need to protect the environment for the benefit of future generations.

3.2.3 Loyalty

Council Members primary duty of care, above all other concerns, is to promote the interests of the Council as a whole.



Council Members acknowledge their responsibility to be loyal to the Council and to be fully committed to all of its regulatory and business activities. Council Members shall take appropriate account of the interests of the public, the profession and all other stakeholders.

Council Members will acknowledge and accept the duty to comply with the highest standards of business ethics.

3.2.4 Confidentiality

The Medical Council is committed to providing appropriate access to general information relating to its activities in a way that is open and that enhances its accountability to the public, the profession and other stakeholders. This is balanced with the need to appropriately safeguard the confidentiality of information.

Council Members should treat all information obtained through their role with the Council as confidential. This includes all information relating to the proceedings at Council meetings and any other information relating to the Council and its business. Council Members may not, without the specific approval of the Council, the President or an officer authorised to act on behalf of the Council, release information in respect of any aspect of the organisation’s activities to any third party, including the news media, other than when compelled to do so by law.

The above requirements do not apply to information already in the public domain. The disclosure of appropriate information to the Minister or to other agencies with which the Council has confidentiality agreements is not subject to the above strictures on confidentiality.



Examples are now provided of how confidentiality is applied in action.

Engagement with the media

Any communications with the media about the work of the Council should be agreed in advance with the Communications and Research group. Members will not engage with the media about the work of the Council and if any contact is made the media / journalist should be referred to Communications Section in accordance with relevant policies for requests for speaker engagements, liaison with the media and the use of social media.

Safeguarding Information

Council Members must respect the confidentiality of information held by the Council. Council Members must comply with relevant legislation and internal information security policies including data protection legislation and the provisions of the Freedom of Information Act.

The Medical Council complies with all relevant statutory provisions (e.g. data protection legislation, Freedom of Information Act, etc) and is committed not to acquire information by improper means. It shall respect the confidentiality of sensitive information held by the Medical Council while complying with the requirements of the Freedom of Information Act 1997, and the Freedom of Information Act (Amendment) Act, 2003, constituting such information as:

- Personal information;
- Information received in confidence by the Medical Council;
- Commercially sensitive information.

Maintaining confidentiality after leaving service

Council Members are required to adhere to confidentiality requirements after their term on the Council has ended. This includes:

- Non disclosure of any restricted or confidential information.
- Safeguarding sensitive information held by the Medical Council in confidence and the timely destruction or return of documents held on leaving the service of the Medical Council.

5. Compliance with the Code

5.1 Following the Code

It is the responsibility of each Council Member to ensure that they are aware of the provisions of this Code and adhere to the standards detailed herein and help other relevant parties to whom this Code applies to do likewise. The Code is not intended to restrict or restrain Council Members unduly in their tasks; they should be viewed as assisting them in understanding the nature of their responsibilities and in avoiding any difficulties which might arise for them.

In addition, it is necessary for each recipient to acknowledge the receipt of this Code and the undertaking to comply with the requirements detailed herein (see declaration set out in the Appendix).

From time to time the Council may assess each Council Member's awareness and knowledge, as well as their compliance with the Code.

5.2 Framework for Ethical Decision Making

In making decisions about ethical issues and the course of action that should be taken in particular cases, Council Members may find the steps and guiding questions outlined below helpful in reaching decisions as to whether a particular action has ethical issues.

1) Recognise the Event, Decision or Issue

- Are you being asked to do something that you think might be wrong?
- Are you aware of potentially illegal or unethical conduct on the part of others at the Council?
- Are you trying to make a decision and are unsure about the ethical course of action?

2) Think Before You Act

- Summarise and clarify your issue.
- Ask yourself, why the dilemma?
- Consider the options and consequences.
- Consult other Council Members.

3) Decide on a Course of Action

- Determine your responsibility.
- Review all the relevant facts and information.
- Refer to applicable Council policies or professional standards.
- Assess the risks and how you could reduce them.
- Contemplate the best course of action.
- Consult other Council Members.

4) Test Your Decision

- Review the "Ethics Questions to Consider".
- Apply the Council's values to your decision.
- Make sure you have considered the Council's policies, laws and professional standards.
- Consult other Council Members - enlist their opinion of your planned action.

5) Proceed With Confidence

- Communicate your decision and rationale to the relevant parties.
- Reflect upon what was learned.
- Share your success stories with others.

5.3 Independent Professional Advice

Council Members may seek professional advice from external Council sources, but only after discussing with the President the justifications for and the basis on which advice is being sought. In the event that any Member of the Council wishes to seek independent professional advice in the furtherance of their duties (defined as their ability to retain full and effective control over the organisation and to monitor the

management and performance of the executive), Members should first consider relying on expert advice supplied by the Council personnel or by advisors retained by the Council.

In circumstances where such advice cannot be obtained from internal Council sources or where independent advice is considered preferable, Members should discuss with the President the justification for and basis on which the advice is being sought, before making any arrangements for the provision of such advice. The President will determine what constitutes reasonable justification for independent advice to be sought and will adjudicate, if necessary, as to what constitutes reasonable expense.

5.4 *Violations of the Code*

The Council does not approve of any actions that are performed for the benefit of the Council if they are in violation of this Code, the Council's values or any other relevant Codes, regulations or legislation. This Code defines the standards that each Member should adhere to in performing their duties for the Council.

In addition disciplinary actions will also apply to anyone who directs or approves infractions or has knowledge of them and does not report the suspected breach of the Code in line with the process for good faith reporting.

5.5 *Good Faith Reporting of Suspected Wrongdoing*

Council Members are encouraged to report and voice their serious concerns about a suspected breach of this Code of Conduct to an appropriate authority on a confidential basis without fear of reprisal, dismissal or discriminatory treatment.

- "Good faith report" means a report of conduct defined as wrongdoing, where the person making the report has reasonable cause to believe the report is true and where the report is made without malice.
- "Wrongdoing" means a breach or suspected breach of this Code, or a concern in respect of any potential improprieties.

All *Good Faith Reports* and resulting investigations will be kept confidential, unless disclosure is required under any enactment, regulatory requirement or an order of a Court.

The Council has a culture that encourages openness, integrity and accountability. There will be no action or reprisal taken against any person reporting a genuine suspicion in good faith. The Council will not tolerate retaliation or retribution for reporting such concerns.

This Good Faith reporting mechanism is intended as a last option when all other internal reporting avenues are not available or have failed. The following procedures will apply to Council Members reporting a breach of the Code of Conduct or any impropriety relating to matters of financial reporting, financial control, accounting or auditing:

1. a report should be submitted to the Secretary of Council.
2. the Secretary will discuss the report with the President or CEO as appropriate.

3. if necessary, the Secretary will seek legal advice on how to proceed from the Council's legal advisors and/or initiate an external investigation if deemed appropriate.

In the case of Council staff, please refer to the Staff Handbook for further details outlining the procedures to be followed in the reporting of a suspected breach of this Code are set out in the Staff Handbook.

6. Responsibility & Review of the Code

6.1 Responsibility

This Code of Conduct shall be circulated to and retained by each Member as well as other relevant parties whether invited to participate in Council Working Groups or Committees, or otherwise.

This Code should be read in conjunction with the Council's published Policies, Rules, Procedures and Guidelines.

6.2 Review

The Council is committed to reviewing and updating this Code of Conduct whenever necessary and at a minimum of at least once during the term of the Council.

Points for Noting

The Code, deliberately, either makes no specific reference **or does not specifically elaborate on a number of topics** (on the basis that they are addressed directly or indirectly in other policies, rules, procedures or guidelines) including:

- Good Faith Reporting Policy
- Medical Council Social Media Policy
- Medical Council Media Policy
- Medical Council Travel Policy
- Draft Policy on Gifts and Hospitality
- Medical Council ICT User Guide
- Human Resources Policies & Procedures
- Medical Council Safety Statement
- Freedom of Information – Section 15 & 16 Manual

Appendix 1 - Ethics and Standards in Public Office

This appendix provides a guide to the requirements of Council Members to comply with the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001

Obligations under the Ethics legislation

All those who hold designated directorships or occupy designated positions of employment in public bodies prescribed by regulation for the purposes of the Ethics legislation (i.e. the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001) must comply with the relevant provisions of the legislation. Compliance with the Ethics Acts is deemed to be a condition of appointment or employment.

Disclosure of Registrable Interests

The Ethics in Public Office Act 1995 provides for the disclosure of registrable interests by holders of designated directorships and occupiers of designated positions of employment in public bodies prescribed for the purposes of the Ethics legislation. Briefly, the requirements are:

Designated Directors

Are required in each year, during any part of which they hold or held a designated directorship of a public body, prescribed by regulations made by the Minister for Finance, to prepare and furnish, in a form determined by the Minister for Finance, a statement in writing of their registrable interests, and the interests, of which a person has actual knowledge, of his or her spouse or a child of the person or of his or her spouse, which could materially influence the person in, or in relation to, the performance of the person's official functions by reason of the fact that such performance could so affect those interests as to confer on, or withhold from, the person, or the spouse or child, a substantial benefit. The statement must be furnished to the Standards in Public Office Commission (the Standards Commission) and to such an officer of the body as determined by the Minister for Finance. Where no registrable interest or interests exist, a "nil" statement is requested.

Designated Positions of Employment

Are required in each year, during any part of which they occupy or occupied a designated position of employment in a public body, prescribed by regulations made by the Minister for Finance, to prepare and furnish, in a form determined by the Minister for Finance, a statement in writing of their registrable interests, and the interests, of which a person has actual knowledge, of his or her spouse or a child of the person or of his or her spouse, which could materially influence the person in, or in relation to, the performance of the person's official functions by reason of the fact that such performance could so affect those interests as to confer on, or withhold from, the person, or the spouse or child, a substantial benefit. The statement must be furnished to the relevant authority for the position as determined by the Minister for Finance. Where no registrable interest or interests exist, a "nil" statement is requested.

Note: For the purposes of the Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 ("the Ethics Acts"), and in the case of the BAI, the designated positions are the Secretary of the Authority, the Chief Executive Officer and all other positions at the Grade of Higher Executive Officer and above. Those who held Designated Positions are required to comply with the disclosure provisions of the Ethics Acts.

Material Interests

The holder of a designated directorship or the occupier of a designated position of employment is required to furnish a statement of a material interest where a function falls to be performed, and where the director or the employee or a “connected person” (e.g. a relative or a business associate of the director or employee) has a material interest in a matter to which the function relates. Such a statement must be furnished to the other directors of the public body by a designated director or to the relevant authority by the occupier of a designated position of employment. The function must not be performed unless there are compelling reasons to do so. If a designated director or the occupier of a designated position of employment intends to perform the function, he or she must, either before doing so, or if that is not reasonably practical, as soon as possible afterwards, prepare and furnish a statement in writing of the compelling reasons to the other directors and to the Standards in Public Office Commissions if a designated director, or to the relevant authority if an employee. This obligation applies whether or not the interest has already been disclosed in a statement of registrable interests.

Tax Clearance obligations of appointees to “senior office”

The tax clearance provisions of the Standards in Public Office Act 2001 apply to persons appointed to “senior office”, i.e. to a designated position of employment or to designated directorship in a public body under the 1995 Ethics Act, in relation to which the remuneration is not less than the lowest remuneration of a Deputy Secretary General in the civil service. All persons appointed to “senior office” must provide to the Standards in Public Office Commission:

- not more than nine months after the date on which he or she is appointed a tax clearance certificate that is in force and was issued to the person not more than nine months before, and not more than nine months after, the appointment date; or
- an application statement that was issued to the person and was made not more than nine months before, and not more than nine months after, the appointment date; and
- a statutory declaration, made by the person not more than one month before, and not more than one month after, the date of appointment, that he or she, to the best of his or her knowledge and belief, is in compliance with the obligations imposed on him or her by the Tax Acts and is not aware of any impediment to the issue of a Tax Clearance Certificate.

Investigations

Directors and employees in public bodies can be subject to an investigation by the Standards Commission, either where it considers it appropriate to do so, or following a complaint, or where there is contravention of the tax clearance requirements, and there is nothing that precludes the Standards Commission from taking into account this Code of Practice in such an investigation.

Additional information and advice

The public bodies prescribed for the purposes of the Ethics legislation and the designated directorships and designated positions of employment therein, the forms for preparing statements of registrable interests and “nil” statements, and details of the officers of the body and the relevant authorities to whom such statements should be furnished are provided in the “Guidelines on Compliance with the Provisions of the Ethics in Public Office Acts 1995 and 2001-Public Servants”, published by the Standards in Public Office Commission and available for download on its web site: <http://www.sipo.gov.ie>

Appendix 2 – Declaration of Compliance

I UNDERTAKE TO COMPLY with the Code of Conduct, a copy of which I acknowledge having received and read.

Name:

Address:

Signature:

Date:

Appendix 3:

Making a complaint about a Member of the Council or one of its Committees or Working Groups

1 Introduction

- 1.1 The Medical Council (the Council) is committed to discharging its statutory functions in a high-quality, accessible, responsive and transparent manner. Any complaints or concerns regarding members of the Council or its committees will be fully investigated and appropriate action will be taken.

2 Scope

- 2.1 This procedure is for dealing with complaints against those individuals appointed to the Council or one of its Committees or Working Groups in relation to their role with the Council. References below to the Council shall include within its meaning Committees and Working Groups of Council.
- 2.2 This process is not designed to deal with complaints about the work of the Council staff which are dealt with under our internal HR procedures procedure.
- 2.3 The procedure described in this document provides a formal route for complaints about members of the Council in their Council capacity only. Professionally related complaints should be referred to the relevant professional and or regulatory body.
- 2.4 Complaints shall be considered in the context of issues set out in the following:
- a) The Code of Conduct for members of the Council adopted in September 2013.(See Appendix A)
 - b) The matter referred to at Section 23(1) (a) to (e) of the Medical Practitioners Act 2007. (see below)

Section 23 - Removal of members of Council from office.

- (1) The Minister may at any time remove a member of the Council from office if—
- a) the member has become incapable through illness of performing the functions of the office,
 - b) the member has committed stated misbehaviour,

- c) whether or not following a review under subsection (9), the Minister is satisfied that the member's behaviour prevents the Council from, or unnecessarily hinders the Council in, performing its functions in an effective manner,
- d) the member has contravened—
 - (i) section 30,
or
 - (ii) an applicable provision of the Ethics in Public Office Act 1995,
or
- e) in performing functions under this Act, the member has not been guided by a code of conduct that has been drawn up under section 10(3) of the Standards in Public Office Act 2001 and that relates to the member.

2.5 Where the person making the complaint is an employee of the Medical Council they should, in the first instance, speak to the CEO.

3. Early resolution of complaints

In order to seek an early resolution of the issue, those making a complaint are encouraged to raise concerns directly with the individual about whom they are concerned in the first instance, particularly in circumstances where the complainant is a member of Council. Where this does not resolve the issue, or in situations where this is not appropriate or feasible, the two-stage complaints procedure set out in this document should be used.

4. How to Make a Complaint

- 4.1 Complaints should be made in writing.
- 4.2 In all cases, complainants will be asked to sign a declaration confirming that he/she has no objection to the individual involved seeing the complaint, and that the information that has been given is true and accurate.
- 4.3 Complaints will be furnished to the Secretary to Council who will manage the process.

5. Stage 1 – Complaint Screening and Resolution via mediation

- 5.1 Many complaints may be resolved at this stage without the need for progression to Stage 2.
- 5.2 The procedure at Stage 1 is set out below:
- 5.3 The Medical Council will acknowledge receipt of your written complaint (letter or complaint form) within five working days.
- 5.4 The complaint will be investigated by the Screening Panel which will consist of
 - a) The President
 - b) The Vice President
 - c) The Chair of the Fitness to Practise Committee (FtPC)

In the event that the complaint is in respect of one of the above or in the event that one of the above is not available, the remaining two members of the Panel will appoint a medical member in the case of the President and Vice-President and a non-medical member in the case of the Chair of FtPC of Council.

- 5.5 The Screening Panel will notify the individual complained about and invite him or her to make written submissions and may seek such other information as he/she considers necessary to conduct an investigation.
- 5.6 The Screening Panel will:
 - a) determine which complaints require a full investigation per Stage 2 below
 - b) Endeavour to mediate a resolution to complaints at this stage.
- 5.7 If the Screening Panel is of the view that a complaint warrants a referral to Stage 2, the Panel will write to the Complainant giving notice that his/her complaint will be referred to a Panel for a formal investigation under Stage 2 as set out below.
- 5.8 The Screening Panel will provide reasons in writing for their decision to refer or not to refer to Stage 2.

6. Stage 2 – Formal Investigation

Complaint Process

- 6.1 Where the Screening Panel has referred a complaint to Stage 2 for a formal investigation, the original Complaint and Declaration Form will be used.
- 6.2 Complaints will be considered within three months of the decision to refer to stage 2. The

Panel referred to below may extend this period in exceptional circumstances where extra time may be needed to ensure a fair and comprehensive consideration of the complaint.

Composition of Panel

- 6.3 The Chair of the Audit, Strategy and Risk Committee and two persons nominated by the President of the Law Society of Ireland will form an Investigation Panel and will fully investigate the complaint.
- 6.4 The Panel will appoint a Chair from amongst its members.

Procedure

- 6.5 Copies of all documentation considered by the Screening Panel will be sent to the Investigation Panel and the individual who is the subject of the complaint.
- 6.6 The Panel will make any necessary enquiries, of the complainant, the individual who is the subject of the complaint, and relevant third parties to enable it to consider the issues thoroughly.
- 6.7 The Panel may also hear evidence and may convene an oral hearing if:
 - a) There are material factual controversies,
 - b) The person complained about requests an oral hearing
- 6.8 Otherwise, the matter may be considered on the written evidence alone.

Administrative provisions

- 6.9 All decisions of the Panel will be made by a simple majority of votes.
- 6.10 Meetings of the Panel will be held in private.
- 6.11 The Panel may request any advice, or support as it reasonably sees fit. Such requests will be directed to the Secretary of the Council. On conclusion of its enquiries and of any hearing, the Panel will decide whether the complaint is upheld and if so, what action or sanction it recommends to the Council.

Actions

- 6.12 If the Panel concludes that the complaint is not substantiated it will recommend to the Council that no action be taken. If, on the other hand, the Panel concludes that it is substantiated, it will recommend an appropriate action by the Council to include one of the following:
 - a) That the individual be issued with a formal warning by the Council and that this be recorded in the relevant minutes.
 - b) That the Council refer the matter to the Minister for Health in the context of Section 23 of the Medical Practitioners Act 2007.
- 6.13 The Chair of the Panel will then prepare a report of the complaint, the Panel's findings, its recommendation(s) and the reasons. This will be made available to the parties involved as soon as possible. A copy of the report will also be sent to the Council.

Council Procedure

6.14 The Council may:

- a) Allow representations to be made by members who are the subject of a complaint, if so wished.
- b) Agree to the recommended action by a majority vote of those present. Voting must exclude any Council Member who is complained of and/or who makes the complaint.
- c) Determine that an action other than the recommended action is appropriate again by a majority vote of those present. Voting must exclude any Council Member who is complained of and/or who makes the complaint.

6.15 Where an action has been recommended it will be put into effect as soon as practicable.