



Comhairle na nDochtúirí Leighis
Medical Council

What to do if a complaint is made about you

A guide for doctors

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About this booklet

This booklet tells you about the procedure that the Medical Council will follow if a complaint is made about you. Under the Medical Practitioners Act, 2007, the Medical Council is responsible “for protecting the public by promoting and better ensuring high standards of professional conduct and professional education, training and competence among doctors”.

What is the legal basis for looking into complaints?

The legal basis of the complaints procedure is set out in parts 7, 8 and 9 of the Medical Practitioners Act, 2007. You can view or download the Medical Practitioners Act, 2007, from the Medical Council’s website: **www.medicalcouncil.ie**.

Who can complain about a doctor?

Anyone can make a complaint to the Medical Council about a doctor. This includes members of the public, employers and other healthcare staff. The Medical Council can also make a complaint about a doctor. The Preliminary Proceedings Committee (PPC) of the Medical Council is responsible for looking at complaints against doctors. You can view or download the PPC’s Procedures, from the Medical Council’s website: **www.medicalcouncil.ie**.

What types of complaints does the Medical Council look into?

The Preliminary Proceedings Committee (PPC) of the Medical Council looks at complaints for one or more of these reasons.

- Professional misconduct
- Poor professional performance
(this can only be considered for events which took place on or after 3 July 2008)
- Relevant medical disability
- Failure to comply with one or more condition(s) attached to your registration
- Failure to comply with an undertaking given to the Medical Council or to take any action specified in a consent given in the context of a previous inquiry
- Contravention (infringement) of the Medical Practitioners Act 2007
- Being convicted in the State for an offence triable on indictment (or, if convicted outside the State, for an offence that would be triable on indictment in Irish courts)

What happens when the Medical Council gets a complaint?

When the medical council receives a complaint, a case officer is assigned to help the Preliminary Proceedings Committee (PPC) investigate the complaint.

When we get a complaint, the case officer will:

- write to the person who has made the complaint (complainant) and tell them that we have got their complaint; and
- send a copy of the complaint to you.

At its next meeting, the PPC will then look at the complaint and may ask for more information or documents from the complainant, you or any other people involved such as a hospital. The PPC has the power to get documents to help it make its decision. The case officer assigned to the complaint will contact you about any decisions made by the PPC. When the PPC is satisfied that it has enough information, it will then decide what action to take:

- (a) If the PPC believes that **there is a case to take further action** it will refer the complaint to the Fitness to Practise Committee for an inquiry. **or**
- (b) If the PPC decides **not to refer** the complaint to the Fitness to Practise Committee it will give an opinion to the Medical Council that:
 - they should take no further action; **or**
 - the complaint should be referred to another body or authority or to the Medical Council's professional competence scheme (when Part 11 of the Act comes into effect); **or**
 - the complaint could be resolved by mediation or other informal methods. Both you and the complainant need to agree to this.

The PPC does not make a decision on the facts of the complaint, nor does it decide whether the complaint is proven. It only provides an opinion to the Medical Council on what action, if any, the Council should take about the complaint.

The PPC will report its opinion to the Medical Council at the next available opportunity. When looking at the PPC's opinion the Medical Council may decide:

- not to take any further action; **or**
- to tell the PPC to refer the complainant to another body or authority or to a professional competence scheme; **or**
- to refer the complaint to be resolved by mediation or other informal methods; **or**
- to tell the PPC refer the complaint to the Fitness to Practise Committee for inquiry.

What is mediation?

The PPC may give an opinion to Medical Council that the complaint could be resolved by mediation. The PPC may do this if it believes, after looking at the circumstances of the complaint, that it would be possible to restore the doctor-patient relationship.

Mediation is a process where two or more people agree to the appointment of a neutral third person called a mediator to help them resolve a dispute.

Section 62 of the Act deals with mediation. When the Medical Council gets the PPC's opinion, it can refer the complaint for mediation. This can only be done if both you and the person who made the complaint agree to use mediation to resolve the complaint.

If the Medical Council decides that the complaint could be resolved by mediation, we will write to you and explain how the process works.

How long does it take to deal with a complaint?

We understand that having a complaint made against you can be stressful, so we will try to deal with the complaint as quickly as we can. Depending on how complex the complaint is, it can take up to five months from the date we get the complaint to the Medical Council making a decision on what action to take.

If the PPC or Medical Council refers the complaint to the Fitness to Practise Committee for an inquiry we will write to you to tell you of this decision. As soon as possible after the decision has been made, the Medical Council's solicitors will send you:

- notice of the allegations against you;
- evidence in support of the allegations, which the Chief Executive Officer of the Medical Council will rely on at the inquiry;
- the date or dates we propose to hold the inquiry and details of the venue for the inquiry; and
- notification that you can apply to have some or all of the inquiry held in private.

What happens at the inquiry?

An inquiry is a hearing similar to a hearing before a court or tribunal. An inquiry usually takes place within six months from the date of the decision to hold it.

The Fitness to Practise Committee hearing the inquiry is normally made up of three people: two non-medical and one medical. A legal adviser, known as a Legal Assessor, sits with the Committee. The Legal Assessor does not take part in making a decision, but he or she advises the Committee and the other people involved on the law and procedure.

Inquiries can be held in public. This means that members of the public, including journalists, can attend. A stenographer will also be there to record the evidence and to produce a written record of everything said at the inquiry. If the inquiry is to be held in public, a notice will appear on the Medical Council website advising of the time and place of the inquiry.

All or part of the inquiry may be held in private if the Fitness to Practise Committee believes that this would be appropriate. You or any witness attending the inquiry to give evidence can apply to hold some or all of the inquiry in private. No notice will appear on the Council's website if the inquiry is to be held in private.

The Fitness to Practise Committee has the power to force complainants and witnesses to give evidence at an inquiry. The Committee also has the power to get documents it needs for the inquiry.

A solicitor or counsel representing the Chief Executive Officer of the Medical Council will normally open the inquiry by presenting the evidence and calling witnesses to give evidence. You or your legal representative may question the witnesses on their evidence. The Committee may also ask some questions. After the solicitor or counsel acting for the Chief Executive Officer has finished presenting the case, you or your legal representative may call witnesses or make statements to the Committee.

At the end of the inquiry, the Committee will normally leave the room to decide whether the allegations have been proven. The Committee will usually return to the room to give its findings, and will write a report of the findings and the reasons for them.

What powers does the Medical Council have?

The Medical Council will usually look at the Fitness to Practise Committee's report within eight weeks of the end of the inquiry. If the Committee finds that the allegations against you have been proven, the Council may impose one or more of these sanctions on you:

- advise, admonish or censure you in writing;
- censure you in writing, and fine you up to €5,000;
- attach conditions to the retention of your name in the register;
- transfer your registration to another division of the register;
- suspend your registration for a specified period;
- cancel your registration;
- prohibit you from applying for restoration to the register for a specified period.

You and your legal representatives may attend the Medical Council meeting and make submissions about what type of sanction should be imposed.

Can I appeal a decision of the Medical Council?

If the Medical Council decides to impose any of the above sanctions on you, except for advice, admonishment and censure, you can lodge an appeal against the Medical Council's decision to the High Court within 21 days.

A judge in the High Court hears appeals. The appeal is heard in open court and is usually a complete re-hearing of the inquiry, where witnesses will be called to give evidence.

The High Court has the power to either:

- confirm the decision of the Medical Council; or
- cancel the decision of the Medical Council and decide to impose a different sanction or impose no sanction.

If you do not lodge an appeal, the Medical Council will apply to the High Court to confirm its decision. The Council does not need confirmation from the High Court if the sanction is to advise, admonish or sanction you.

Should I get independent legal advice?

This booklet gives doctors information on the complaints procedure that the Medical Council will follow if a complaint has been made against them. It is not a substitute for getting independent advice from a defence organisation or solicitor.

The Medical Council cannot give or arrange legal representation for you or give any legal advice on how you should respond to the complaint.

How is my registration affected by a complaint?

Your registration with the Medical Council does not change once someone makes a complaint against you, unless the Council applies to suspend your registration under section 60 of the Medical Practitioners Act, 2007 (see next section). Your name will still be on the register and you will still be entitled to work as a doctor in Ireland.

However, two parts of your registration may be affected.

1. Voluntary withdrawal

If we get a complaint about you, you will not be able to voluntarily withdraw your name from the register until the PPC has given an opinion about the complaint. If the PPC decides that there is not a case for holding an inquiry, the Medical Council can then accept an application to voluntarily withdraw your name from the register.

2. Certificate of Good Standing and Certificate of Current Professional Status

The Medical Council may not be able to issue you with a Certificate of Good Standing or Certificate of Current Professional Status while there is an ongoing complaint against you. If the PPC decides that there is not a case for holding an inquiry, the Medical Council can then give you a Certificate of Good Standing or Certificate of Current Professional Status.

How can the Medical Council suspend my registration?

Section 60 of the Medical Practitioners Act, 2007, allows the Medical Council to apply to the High Court for an order suspending a doctor's registration. It can do this if the Council thinks it is necessary to protect the public, whether or not the doctor is the subject of a complaint. If the Medical Council gets an order under this section against you, we will write to tell you this.

Depending on the terms of the order, you may have to completely stop working for the length of time stated in the order, or you may have to stop working in a specific way or role.

Glossary

You may not be familiar with some of the terms used in this leaflet.
We have explained these below.

Admonish – to reprimand firmly

Allegation – the charge or charges faced by the doctor arising out of the complaint

Censure - to criticise strongly

Evidence – what a witness says at the inquiry and documentary evidence, including photographs, that are brought before an Inquiry

Inquiry – a hearing similar to a hearing before a court or tribunal

Legal assessor – a Senior Counsel who advises the Fitness to Practise Committee

Fitness to Practise Committee – a group of committee members, comprising at least one medical and two non-medical people

Poor professional performance – a failure by the doctor to meet the standards of competence (whether in knowledge and skill, the application of knowledge and skill or both) that can reasonably be expected of doctors practising the kind of medicine practised by the doctor

Preliminary Proceedings Committee – a committee that considers complaints and give its opinion to the Medical Council as to what action should be taken

Professional misconduct – conduct that experienced, competent and reputable doctors consider disgraceful or dishonorable; conduct that falls short of the standards of conduct expected of doctors

Relevant medical disability – a physical or mental disability (including addiction to alcohol or drugs) that may impair the doctor's ability to practise medicine or a particular aspect of medicine

Sanction – the type of penalty that the Medical Council can impose on a doctor

Useful contacts

Medical Protection Society

Granary Wharf House, Leeds, LS11 5PY, United Kingdom.

Tel: 00 44 113 243 6436.

www.medicalprotection.org/uk

Medical Defence Union

MDU Services Limited, One Canada Square, London, E14 5GS, United Kingdom.

Tel: 1800 535 935 (for doctors contacting from Ireland)

www.themdu.com

Medisec Ireland

10 Fitzwilliam Place, Dublin 2.

Tel: 1800 460 [400](tel:1800460400).

www.medisec.ie

Medical Council

Kingram House, Kingram Place, Dublin 2.

Tel: +353 1 4983100. Fax: +353 1 4983102.

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www.medicalcouncil.ie