



Comhairle na nDochtúirí Leighis Medical Council

INFORMATION FOR HEALTHCARE ORGANISATIONS, HEALTHCARE STAFF AND EMPLOYERS OF DOCTORS

THE HANDLING OF CONCERNS ABOUT DOCTORS

The Medical Council (“the Council”) is the statutory regulator of doctors in Ireland. Its role is to protect the public by promoting and better ensuring the highest standards of good professional practice among doctors.

Patient safety is at the heart of the Council's role and the Council aims to improve standards of patient safety by setting standards to protect the public. Guidance in relation to professional conduct and ethics for doctors can be found in the [Guide to Professional Conduct and Ethics for Registered Medical Practitioners](#) (“the Ethical Guide”).

The Council responds to complaints made about doctors using a fair and robust process. Any person (including the Council) can make a complaint to the Council about a doctor. This includes members of the public, the HSE, employers, doctors and healthcare staff.

This leaflet provides information to healthcare organisations, healthcare staff and employers of doctors about

- when they should make a complaint about a doctor to the Council
- how to make a complaint
- what will happen after a complaint is made

When should healthcare organisations, healthcare staff and employers of doctors make a complaint?

Doctors have a responsibility to act in the best interests of their patients. If you have concerns that a doctor's conduct or competence may be a risk to patient safety you should inform the Council as soon as possible.

Examples of such conduct/competence include:

- professional performance below the standard that can be reasonably expected as demonstrated, for example, by serious or repeated mistakes in diagnosing or treating a patient's condition;
- mis-prescribing medication (e.g. benzodiazepines or opiates excessively);
- failure to examine patients properly or respond to reasonable requests for treatment;
- treating patients without properly obtaining their consent;
- behaving dishonestly;
- making sexual advances towards patients;
- carrying out inappropriate examinations;
- misusing alcohol or drugs.

The above list contains examples only and is not a complete list of all conduct/competence issues that can be considered by the Council. The Ethical Guide contains guidance on professional standards and ethics for doctors.

The Council recognises that healthcare organisations, healthcare staff, including doctors, and employers of doctors are often best placed to determine whether a doctor's conduct/competence may pose a risk to patients or others. If you have concerns about a doctor's conduct or competence you should tell the Council as soon as possible.

The Council's complaints process does not replace local procedures or the responsibility of the organisation to investigate complaints about doctors and to protect the public where necessary. Therefore, if you are a manager in healthcare organisation or healthcare professional, you should also inform the appropriate organisation/clinical director at a local level if you have concerns about a doctor.

In addition, if you are a doctor, you have an obligation pursuant to the Ethical Guide, to inform the Medical Council of concerns about a colleague's conduct or competence without delay where there is a risk to patient safety.

If you have any queries about whether to make a complaint to the Medical Council you should contact the Professional Standards Department of the Medical Council on 01-4983100 or by e-mail to complaints@mcirl.ie. If you want further information about making healthcare complaints and the organisations that consider healthcare complaints, please go to the website www.healthcomplaints.ie. This website has been developed for people who use health and social care services in Ireland as well as for families, care givers and advocates.

What the Medical Council cannot do

The Medical Council cannot look into complaints about anyone who is not a registered doctor. Therefore, the Medical Council cannot:

- deal with complaints about nurses, pharmacists, dentists, opticians, social workers, hospitals, clinics or other healthcare organisations.
- Give legal or professional advice or representation to people making complaints.
- Make a doctor apologise to a patient or professional colleague;
- Order a doctor to provide a patient with treatment.

How to make a complaint?

The Medical Council's complaint procedures are set out in the Medical Practitioners Act 2007, and in the Preliminary Proceedings Committee Procedures document which are available at the following link. <http://www.medicalcouncil.ie/Public-Information/Making-a-Complaint-/PPC-Procedures-document.pdf>

The best way to make a complaint to the Council is by completing the Council's complaint form. The Council's complaint form can be accessed online at www.medicalcouncil.ie/Public-Information/Making-a-Complaint-/. It can be

downloaded and submitted by email to complaints@mcirl.ie, or submitted by post to the following address:

Professional Standards
Medical Council
Kingram House
Kingram Place
Dublin 2

Only written complaints can be dealt with by the Council. In circumstances where you cannot access the complaint form you should submit your complaint in writing or by email to the above e-mail/postal address.

You will need to include the following information in the written complaint;

- Your full name and address
- The doctor's name, registration number, place of work and specialty, if known. The doctor's registration number can be found at www.medicalcouncil.ie/registration/check.asp.
- Please provide us with as much information as possible about the complaint, including details of what the complaint is about, where it happened, when it happened (including dates and times if known) and names of any other relevant witnesses. If there are a number of incidents of concern, please detail each and every incident. Please provide us with any relevant documentation.
- If a complaint about the doctor has been made to the healthcare organisation where the doctor is employed or to another organisation, please provide us with this information and any relevant documentation.

Will my complaint be provided to the doctor?

The Council is obliged to tell the doctor that you have made a complaint. The Council will also provide the doctor with a copy of the complaint out of procedural fairness to the doctor and to give the doctor an opportunity to respond to the complaint.

Is a complaint a protected disclosure?

A complaint to the Medical Council is a protected disclosure pursuant to the Health Act, 2004. This provides protection, from civil liability and from penalisation by an employer to a person, who makes a complaint in good faith to the Medical Council and where a person has reasonable grounds for believing that a doctor has posed, is posing or is likely to pose a risk to the health, safety and welfare of the public.

In addition, under the Medical Practitioners Act, 2007, in respect of any action for defamation the proceedings of the PPC and the Fitness to Practise Committee are absolutely privileged, except in the case of a document that is the subject of an allegation that it has not been made in good faith.

What happens when a complaint is made?

Complaints are investigated by the Medical Council's Preliminary Proceedings Committee ("PPC"). A case officer is assigned to each complaint to assist the PPC with its investigation.

The PPC looks into complaints that are made about a doctor (or doctors) on one or more of the following grounds:

- Professional Misconduct
- Poor Professional Performance
- A relevant medical disability
- A failure to comply with one or more condition(s) attached to a doctor's registration
- A 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
- A conviction 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 the Irish courts.

The PPC in its investigation of the complaint may direct the case officer to request further documentation or information from the person who made the complaint, the doctor who is the subject of the complaint or from other people involved such as the doctor's employer or hospitals.

When the PPC is satisfied that it has enough information, it will then decide what action to take:

1. If the PPC believes that there is a case to take further action it will refer the complaint to the Fitness to Practise Committee; or
2. 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:
 - i. it should take no further action; or
 - ii. the complaint should be referred to another body or authority or to the Council's professional competence scheme. For further information about the Council's performance assessment scheme, please click on the attached link: <http://www.medicalcouncil.ie/Information-for-Doctors/Professional-Competence/Performance-Assessment/What-to-expect-during-a-performance-assessment-pdf.pdf> or
 - iii. the complaint could be resolved by mediation or other informal means.

The Council will then consider this opinion and may decide to do one of the above or to refer the complaint to the Fitness to Practise Committee for an Inquiry.

How long does the Preliminary Proceedings Committee complaints procedure take?

Depending on the complexity of a complaint it can take up to 5 months or more from the date of receipt of the complaint for the PPC to make a decision in relation to a complaint.

Immediate Suspension

Where the Council considers that an immediate suspension is necessary to protect the public, it can apply to the High Court for an order to suspend a doctor's registration, regardless of whether the doctor is the subject of a complaint.

What happens at an Inquiry?

It is possible that the PPC may refer a complaint to the Fitness to Practise Committee for an inquiry. If a case is referred to the Fitness to Practise Committee, you may be required to attend before the Committee as a witness.

The Fitness to Practise Committee hears sworn oral evidence at an inquiry and in that regard is a hearing similar to a hearing before a court or a tribunal.

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 advises the Committee on the law and procedure.

At an inquiry the CEO of the Medical Council is required to present the evidence to the Committee. The doctor the subject of the inquiry is entitled to give evidence and to call witnesses or produce documentation in his/her defence.

If the PPC refers the complaint to the Fitness to Practise Committee for an oral inquiry, the Council will advise you of:

- when the inquiry will be held;
- how long the hearing will take; and

- if you will be called as a witness to give evidence

If allegations are proven at an Inquiry what can happen?

If the Fitness to Practise Committee finds that one or more allegations are proven the Medical Council can impose one or more of the following sanctions:

- Advise, admonish or censure in writing;
- Censure in writing, and fine up to €5,000;
- Attach conditions to a doctor's registration. For further information on the types of conditions that can be attached to a doctor's registration, please click on the attached link.;
- Transfer a doctor's registration to another division of the register;
- Suspend a doctor's registration for a specified period;
- Cancel a doctor's registration;
- Prohibit a doctor from applying for restoration to the register for a specified period

If the Medical Council decides to impose any of the above sanctions, except for advice, admonishment and censure, there is a right of appeal against the Medical Council's decision to the High Court. If no appeal is made against the Medical Council's decision, 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 censure.

Contact Us

If you would like to discuss making a complaint against a doctor or any part of the complaints procedure, you can contact the Professional Standards Department on the telephone number or email address below:

Tel: 01 498 3112. Email: complaints@mcirl.ie