

Procedures for the CEO and Preliminary Proceedings Committee in relation to complaints

1. The Committee and staff of Council responsible for investigation and consideration of complaints

1.1. The Preliminary Proceedings Committee

The Preliminary Proceedings Committee (the “**PPC**”) is the committee established by the Medical Council (the “**Council**”) to give initial consideration to complaints.

The Council may make rules under the Medical Practitioners Act 2007 (as amended) (the “**Act**”), to establish subcommittees of the PPC to give initial consideration to complaints.

1.2. The CEO

The CEO of the Council (“CEO”) shall investigate complaints under the Act, unless the CEO is satisfied the complaint is not made in good faith or is frivolous or vexatious.

1.3. Authorised Officers

The CEO may appoint authorised officers to investigate complaints and to assist the CEO and the PPC in relation to complaints.

2. Receipt of the Complaint by the CEO

2.1. When a complaint is received by the CEO about a registered medical practitioner (the “**Practitioner**”), the CEO shall investigate the complaint, unless he / she is satisfied the complaint is not made in good faith or is frivolous or vexatious.

2.2. If the CEO is satisfied the complaint is not made in good faith or is frivolous or vexatious, he or she shall notify the complainant of the decision and the reasons for the decision. The CEO shall notify the Practitioner of the decision and the reasons for the decision, if the CEO is of the opinion that it is in the interests of the complainant, the Practitioner or both, to do so.

2.3. In circumstances where a Practitioner the subject of a complaint is convicted in the State for an offence triable on indictment or is convicted outside the State for an offence consisting of acts or omissions that, if done or made in the State, would constitute an offence triable on indictment, the CEO shall immediately refer the complaint to the Council.

- 2.4. In all cases not covered by paragraph 2.2, the CEO shall appoint an authorised officer (“**AO**”) to carry out such investigation of the complaint as the CEO deems appropriate. The AO shall investigate the complaint, as directed by the CEO, and prepare a report for the CEO.
- 2.5. The CEO may, at any stage after receipt of a complaint consider whether immediate suspension of the Practitioner may be necessary to protect the public. If the CEO considers that immediate suspension may be warranted, he/she shall provide the Council with a copy of the complaint and any accompanying documentation for the Council’s consideration pursuant to section 60 of the Act.
- 2.6. The CEO shall as soon as reasonably practicable and in writing:
- a) Acknowledge receipt of the complaint and send the Complainant a copy of these Procedures and such Council literature on making a complaint about a Practitioner as may be current from time to time.
 - b) Send to the Practitioner a copy of the complaint, a copy of these Procedures and a copy of such Council literature on a Practitioner’s dealing with a complaint as may be current from time to time.
 - c) Advise the Practitioner of the appointment of the AO and the fact that the AO will be in contact.
- 2.7. Throughout the course of the investigation, the CEO may provide documentation to the Practitioner, the Complainant and other persons, as appropriate.
- 2.8. The CEO may appoint such other persons, as he or she deems appropriate to provide the CEO, the AO or the PPC with such advice, assistance or expertise as may be required in relation to the consideration or investigation of complaints.

3. Investigation of the Complaint

- 3.1. The AO shall investigate the complaint as directed by the CEO and prepare an investigation report for the CEO (the “**Investigation Report**”).
- 3.2. The AO shall give notice in writing to the registered medical practitioner, the subject of a complaint, of the complaint, its nature and, if known, the name of the complainant.
- 3.3. The AO shall Advise the Practitioner of his/her right to supply to the AO any information that he/she believes should be considered by the PPC or the Fitness to Practice Committee (“**FPC**”).

3.4. The AO may perform all or any of the functions conferred on them by the Act including but not limited to::

- a) Investigating complaints.
- b) By Notice in writing require the complainant to verify by affidavit or otherwise, anything contained in the complaint.
- c) Request the complainant to supply more information relating to the complaint within a specific period. The AO can require such further information to be supplied by means of a statutory declaration.
- d) By notice in writing require the Practitioner to supply within a reasonable period specified in the notice such information relating to the complaint as is specified in the notice. A Practitioner shall comply with such notice.
- e) Interview persons for the purposes of assessing the relevance or evidential value of information or documents that they wish to give to the CEO or the PPC or interviewing persons as to the evidence they propose to give to the PPC.
- f) Record, in writing or otherwise, the statements given and answers made by persons whilst being so interviewed.
- g) Request a person interviewed as described in (d) above to sign a record of a statement made or answer given by the person during the interview.
- h) Request persons to provide the CEO with statements in writing concerning any matter relevant to the CEO's or the PPC's functions and examining such statements.
- i) Seek the productions of documents, to include medical records, from the complainant, the Practitioner and any other relevant person, body or authority.
- j) Seek further information from any person, including but not limited to, the complainant, any other relevant person, body or authority.
- k) Consult with experts and procure expert reports.
- l) Provide the CEO or the PPC with any other advice or assistance required in relation to the preparation of the CEO's or the PPC's reports.

- 3.5. If the complainant fails or refuses, without reasonable excuse, to comply with a requirement or request under paragraphs 3.4(b) and / or (c), the CEO may refuse to consider or further consider a complaint.
- 3.6. Once the AO has concluded the investigation, he or she shall provide the CEO with an Investigation Report for the CEO's consideration. The Investigation Report shall include such documents and information which the AO considers relevant. It shall at a minimum include the complaint and all information supplied by the complainant and the Practitioner.
- 3.7. If directed by the CEO, the Investigation Report and any other information the CEO deems appropriate to send to the PPC, may be sent to the Practitioner for his/her comment, stipulating a reasonable period (not less than 2 weeks) within which the Practitioner may respond.
- 3.8. If for any reason during the investigation of a complaint, an AO is unable to complete the investigation of the complaint, the CEO may assign another AO to investigate the complaint.

4. Referral of the Investigation Report from the CEO to the PPC

- 4.1. The CEO, following receipt of the Investigation Report from the AO, shall forward the complaint, the Investigation Report, any response to the Investigation Report from the Practitioner and any other information which the CEO deems appropriate to the PPC for consideration.

5. Immediate Suspension

- 5.1. On any consideration of a complaint the CEO or the PPC may consider whether immediate suspension of the Practitioner may be necessary to protect the public. If the CEO or the PPC considers that immediate suspension may be warranted they shall provide the Council with a copy of the complaint and any accompanying documentation for the Council's consideration pursuant to section 60 of the Act.

6. Consideration of the Complaint by the PPC

- 6.1. As soon as practicable after receiving the Investigation Report and any other information from the CEO, the PPC shall consider whether there is sufficient cause to warrant further action being taken in relation to the complaint.

- 6.2. On its first and any subsequent consideration of the complaint the PPC may decide to do one or more of the following:
- a) Where it is of the opinion that additional information and/or an additional investigation is required, it will advise the CEO. The CEO shall then seek to obtain such additional information and provide it to the PPC and/or ensure such additional investigation is carried out and a further Investigation Report provided to the PPC.
 - b) Adjourn consideration of the complaint.
 - c) Take such other action within its statutory powers as it may deem appropriate.
 - d) Make its substantive decision on the complaint.

7. The PPC's Decision

- 7.1. The PPC shall, before forming an opinion on whether there is sufficient cause to warrant further action being taken in relation to a complaint, or whether the complaint should be referred to another body or authority, consider:
- a) any information supplied concerning the complaint, and may take account of such matters relating to the Practitioner the subject of the complaint that arise from the investigation of the complaint and any other information it considers appropriate; and
 - b) whether the complaint is trivial or vexatious or without substance or made in bad faith.
- 7.2. Then, the PPC shall consider whether there is sufficient cause to warrant further action in relation to the complaint.
- 7.3. The PPC may request the Practitioner the subject of the complaint to do one or more than one of the following:
- a) If appropriate, undertake not to repeat the conduct the subject of the complaint;
 - b) Undertake to be referred to a professional competence scheme and to undertake any requirements relating to the improvement of the practitioner's competence and performance which may be imposed;

- c) Consent to undergo medical treatment;
 - d) Consent to being censured by the Council.
- 7.4. Where a Practitioner gives an undertaking or consent referred to in paragraph 7.3 the investigation of the complaint shall be considered to be completed and the PPC shall not refer the matter to the FPC. In such circumstances the PPC shall submit to the Council a report in writing specifying the nature of the complaint that resulted in the investigation and the measures included in the undertaking or consent.
- 7.5. Where a Practitioner refuses or fails to give an undertaking or consent requested by the PPC under paragraph 7.3, the PPC may proceed as if the request had not been made.
- 7.6. Where the PPC is of the view that:
- a) There is not sufficient cause to warrant further action being taken in relation to a complaint;
 - b) The complaint should be referred to another body or authority;
 - c) The Practitioner, the subject of the complaint should be referred to a professional competence scheme; or
 - d) The complaint could be resolved by mediation or other informal means,

The PPC shall inform the Council of that opinion.

- 7.7. Where the PPC is of the opinion that there is a prima facie case to warrant further action being taken in relation to the complaint or where the Council directs it to do so, the PPC shall, unless it has been dealt with under paragraph 7.4, refer the complaint to the FPC.
- 7.8. The PPC shall record the reasons for its decision. Those reasons should explain the essential rationale for the decision.

8. General

- 8.1. The PPC will deal with complaints and the CEO and the AO shall act with due expedition consistent with the interests of justice and any administrative constraints.

- 8.2. Notwithstanding these procedures the PPC and the AO shall act at all times consistently with the principles of fair procedures to the extent that they are applicable.
- 8.3. Failure by the Council or any of its organs, members or staff to comply with these procedures shall not of itself invalidate any action of those bodies. The Council, the PPC, the CEO and/or the AO may permit departure from the terms of these procedures for the avoidance of doubt the said power includes the power to extend any time period for which provision is made in these procedures. That power shall be exercised only for good reason and in the interests of justice.
- 8.4. These procedures may be amended from time to time.
- 8.5. These procedures shall take effect on **6 May 2025** and shall apply to all complaints received on or after that date.

Dated 6 May 2025