



Comhairle na nDochtúirí Leighis Medical Council

THE MEDICAL COUNCIL

Preliminary Proceedings Committee

Procedures

1. When a complaint is received by the Medical Council (the “Council”) about a registered medical practitioner (the “Practitioner”) any member of the staff of the Council to whom the Chief Executive Officer (“CEO”) shall have assigned the following tasks or any of them (whether generally or with respect to a particular complaint) shall:
 - a. Record the date of receipt of the complaint.
 - b. Assign a reference number to the complaint.
 - c. Open a complaint file to be maintained in the Professional Standards Department (“PSD”) of the Council. The file may be maintained in paper or electronic form or any combination thereof.
 - d. Place on the file a Certificate of Entry (the “Certificate”) of the Practitioner in the Register of Medical Practitioners (the “Register”). The Certificate records the following:
 - i. The Practitioner’s registration number,
 - ii. The Practitioner’s registered address,
 - iii. The division of the Register in which the Practitioner is registered, and
 - iv. The Practitioner’s specialties, if any.
 - e. Provisionally assign the complaint to a case officer (the “CO”) appointed by the Council pursuant to section 58(1) (a) of the Medical Practitioners Act 2007 as amended (“the Act”).
 - f. Place a “Refer to Professional Standards” alert on the Council’s computer system with a view to any amendments to the Practitioner’s registration or requests for such amendments being notified to the PSD.
2. The provisionally assigned CO 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 doctor 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 his/her right to supply to the Council any information that the Practitioner believes should be considered by the Preliminary Proceedings Committee ("PPC") or the Fitness to Practice Committee ("FPC") and stipulate a reasonable period (not less than 2 weeks) within which the Practitioner may do so.
 - d. Conduct an initial review of the complaint and prepare a draft case plan for the PPC to consider at its next meeting. The draft case plan may be revised from time to time and such revised case plans may be provided to the PPC for its consideration.
3. The Practitioner may, (within the said reasonable period) supply, pursuant to section 59(6) of the Act, any information that the Practitioner believes should be considered by the PPC or the FPC.
4. The draft case plan shall be a draft plan for the investigation of the complaint. It may identify (in general or specific terms):
 - a. Issues and subject-matters relevant to investigation of the complaint and to the PPC decision thereon.
 - b. Investigations to be made.
 - c. Persons to be interviewed.
 - d. Experts to be consulted and/or from whom reports are to be procured.
 - e. Documents to be procured, to include but not limited to medical records, investigation files, and/or personnel files.
 - f. Such other matters as may appear to the CO to be relevant to the investigation of the complaint and to the PPC decision thereon.
5. As soon as reasonably practicable after the complaint has been made the PPC shall consider the complaint, the draft case plan prepared by the CO and any information supplied by the Practitioner. Prior to the PPC meeting, the complaint, any information supplied by the Practitioner and the draft case plan are to be sent to the members of the PPC.
6. On its first and any subsequent consideration of the complaint the PPC may decide to do one or more of the following:
 - a. Approve a case plan – whether or not in the form of the draft case plan.
 - b. Assign one or more COs to investigate the complaint and report to the PPC on such investigation.
 - c. Give directions to the CO as to the conduct of the investigation.
 - d. Direct the CO to carry out any or all of the actions identified in the case plan and any other actions the PPC may consider appropriate.
 - e. Seek the production of documents, to include medical records, from the complainant, the Practitioner or any other third party.

- f. Seek further information from any person – including but not limited to the complainant, the Practitioner and any expert.
 - g. By notice in writing and pursuant to section 59(3) of the Act, require the complainant to verify, by affidavit or otherwise, anything contained in the complaint and/or request the complainant to supply the PPC with more information relating to the complaint and at the discretion of the PPC, require such information requested to be supplied by the complainant by means of a statutory declaration. Such notice shall specify a reasonable period for compliance therewith.
 - h. By notice in writing and pursuant to section 59(7) of the Act, require the Practitioner to supply the PPC within a reasonable period specified in such notice with such information relating to the complaint as is specified in such notice.
 - i. Adjourn consideration of the complaint.
 - j. Make its substantive decision on the complaint.
 - k. Take such other action within its statutory powers as may seem to it appropriate.
7. If for any reason during the investigation of a complaint one or more of the CO's is unable to complete their investigation of the complaint, the Chairperson of the PPC may assign another CO to investigate the complaint.
8. On its initial consideration of each complaint the PPC shall and on any subsequent consideration may consider whether immediate suspension of the Practitioner may be necessary to protect the public. If the PPC considers that immediate suspension may be warranted it 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.
9. The CO will investigate the complaint in accordance with the directions of the PPC and will prepare a case report (the "Case Report"). The case report shall include all documents and information which the CO considers relevant to any PPC decision on or regarding the complaint. It shall at a minimum include the complaint and all information supplied by the Complainant and the Practitioner.
10. If the Practitioner supplies any information to the PPC, the CO will, where directed by the PPC, furnish a copy of such information to the complainant for response. A copy of any such response will be sent to the Practitioner for his/her information.
11. Unless otherwise directed by the PPC the CO shall, on completion of the Case Report send a copy of the Case Report and the accompanying documentation to the Practitioner for his/her comment. The Practitioner will have 21 days to respond.
12. Thereafter the Case Report and any response thereto will be furnished to the PPC as soon as practicable for its consideration.
13. The PPC may on considering the Case Report direct the CO to carry out further investigations and in that respect paragraph 6 shall apply. The results of any such further investigations will be incorporated in a revised Case Report and paragraph 11 shall apply.

14. When the PPC is satisfied either of the sufficiency for its purposes of the material before it or that further reasonable investigation of the matter is unlikely to disclose additional material likely to substantively affect the PPC's opinion the PPC shall
 - a. First consider
 - i. 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 its investigation of the complaint as it considers appropriate and
 - ii. whether the complaint is trivial or vexatious or without substance or made in bad faith.
 - b. Thereafter form an opinion whether:
 - i. there is sufficient cause to warrant further action being taken in relation to a complaint or
 - ii. the complaint should be referred to another body or authority.
15. Once the PPC has formed its said opinion it will do one of the following:
 - a. Where the PPC is of the opinion
 - i. that there is not sufficient cause to warrant further action being taken in relation to the complaint; or
 - ii. the complaint should be referred to another body or authority or to a professional competence scheme; or
 - iii. the complaint is one that could be resolved by mediation or other informal means,

the PPC shall inform the Council of that opinion.
 - b. 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, the PPC shall refer the complaint to the FPC.
16. The PPC shall record one or more reasons for its decision.
17. The PPC will deal with complaints and the CO shall act with due expedition consistent with the interests of justice and any administrative constraints.
18. Notwithstanding these procedures the PPC and the CO shall act at all times consistently with the principles of fair procedures to the extent that they are applicable to the procedures upon which they are engaged.
19. Failure by the Council or any of its organs, members or staff to comply with these procedures shall not of itself invalidate any act or omission. The Council, the PPC, the Chief Executive Officer, the CO 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.

20. These procedures may be amended from time to time.

21. These procedures shall take effect on 1 February 2012 and shall apply to all complaints received on or after that date.

Dated 1 February 2012