

# **Code of Conduct**

## **Members of the Medical Council**

**Approved by the Medical Council on 3<sup>rd</sup> of March 2010**

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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".*

In order to fully fulfil its role 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.

The Code applies to Members of the Council (hereinafter referred to as the 'Council') and is designed to provide the standards which the Council applies to all of its activities and sets 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 key objectives of this Code of Conduct are to:

- Establish an agreed set of ethical principles in line with best practice;
- Meet the requirements of relevant regulatory bodies;
- Ensure compliance with best practice;
- Ensure adherence to ethical practices; and,
- Preserve and enhance the reputation and integrity of the Council.

This Code requires Council Members to act at all times in accordance with the law and, in particular, with:

- 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).

It 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 binds the members of committees and other working groups which the Council may establish from time to time.

## 2. Persons to whom this Code Applies

### 2.1 *Deciding when 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.

A written code, for employees will be compiled by the CEO and should embrace the above principles, including the avoidance of conflict of interest and the acceptance of gifts.

### 2.2 *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 intranet.

## 3. Responsibilities Driven by our Values

This Section sets out the key principles on which this Code of Conduct is based.

### 3.1 *General Obligations*

**The underlying principle of the Code is that Council Members will 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.**

Apart from the primary responsibility of Council Members to fulfil all regulatory and statutory obligations imposed on the Council by legislation and other statutory authorities, 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;
- Take decisions in terms of 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 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.**

All Council Members must confirm their commitment to the disclosure of any outside 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:

- 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 receipt of gifts, hospitality, preferential treatment or benefits that might reasonably be thought to influence a Council Member in the performance of their duties are avoided; and,
- The conduct of purchasing goods/services is in accordance with best practice.

### **3.3 Fairness and Respect for others**

**Council Members are, at all times, committed to fairness 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.**

#### **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 in attendance with courtesy and respect and have due regard for their safety, health and welfare.

#### **In respect of applicants for registration, registrants and fitness to practise:**

All applicants are entitled to fair treatment and each should have a reasonable opportunity to make their application without prejudice. Council Members must not advocate or act on behalf of doctors who apply, or intend to apply, for registration. Doctors who make such representation should be referred to the relevant Section of the Executive.

**In respect of organisations seeking recognition from the Council:**

To ensure equity and accuracy, 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.

**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.

**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.

**External Environment:**

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.

### **3.4 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 the responsibility to be loyal to the Council and to be fully committed to all of its regulatory and business activities.

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

### **3.5 Confidentiality**

**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.

If a Member of Council is asked by an external party (other than the news media) to comment in an unofficial capacity on any aspect of the Council's policies or decisions, whether it is a casual or a targeted question, that Council Member must specifically state that he/she is doing so in a private capacity, and is not mandated by or speaking on behalf of 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. In supporting the provision of access for the public to general information relating to the activities of the Council, in a way that is open and enhances its accountability to the general public, Council Members must respect the confidentiality of the sensitive information held by the Council. This would constitute material such as personal information relating to registered practitioners, information received in confidence and any potentially sensitive information of a commercial or legal nature.

## **4. Conflicts of Interest**

### **4.1 Conflicts of Interest & their Disclosure**

***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.**

In relation to conflicts of interest and their disclosure, Council Members shall 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.

### **4.2 Receiving of Gifts, Sponsorship and Invitations**

**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 will 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.

Council Members may not encourage or solicit entertainment from any individual or company with whom the Council does business. From time to time Members may accept unsolicited entertainment, but only under the following conditions:

- The entertainment occurs infrequently;
- It arises out of the ordinary course of business;
- It involves reasonable expenditure; and,
- The entertainment takes place in settings that also are reasonable, appropriate and fitting to the Council, their hosts and their business at hand.

## 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.

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 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 others.

#### **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 others.

#### **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 others - 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. Non-compliance with this Code, by any Member, may result in the Member being subject to appropriate disciplinary action and depending on the case, being subject to prosecution under civil or criminal law.

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 (normally midway through the term).

### **Points for Noting**

The Code, deliberately, makes no specific reference to the following topics (on the basis that they are addressed directly or indirectly in other policies, rules, procedures or guidelines):

- Political Donations
- Charitable & Community Donations
- The Giving of Entertainment & Gifts
- Provision of advice
- Safe Keeping of Assets
- Employee Loans
- Accounting & Records
- Prevention of Illegal Activities
- Dealing with Parties Suspected in Illegal Activities
- Contract of Employment
- Human Resources Policy
- Health & Safety Policy
- Drugs & Alcohol

- Acquisitions
- Competition Law
- Prevention of Bribery & Corruption
- Fraud
- Information technology
- Our customers
- Communication & media
- Data Protection
- Freedom of information
- Procurement Rules

## Appendix – 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: