

# **Terms of Reference of the Medical Council**

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

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## TERMINOLOGY

For the purposes of these Terms of Reference:

- 'the Medical Council' means the body established under the Medical Practitioners Act 1978 being the organisation as a whole including the Council Members, Chief Executive Officer and staff;
- 'the Council' means the 25 person board of the organisation as appointed by the Minister under section 17 of the MPA 2007;
- 'Council Member', 'Member of the Council' or 'Member' means a person appointed by the Minister in accordance with section 17 of the MPA 2007;
- 'member' (without capital) refers to a person other than a member of the Council serving on a committee or group.
- 'the President' refers to the person appointed under Article 13(1) of Schedule 2
- 'Chairperson'
  - in respect of Council meetings means the chairperson for the time being of a meeting of the Council, as determined in accordance with the Schedule 2 of the MPA 2007 (usually the President)
  - in respect of a committee established by the Council the person appointed by the President;
- 'meeting'
  - In respect of the Council includes an Ordinary Meeting, a Part 9 Meeting, or a Section 60 meeting;
  - In respect of a committee established by the Council means a routine meeting
- 'Ordinary Meeting' refers to an Ordinary Meeting of the Council held in accordance with the provisions of the MPA 2007 to deal with matters not directly relating to Part 9 of the MPA 2007;
- 'A Part 9 Meeting' refers to a meeting of the Council held in accordance with the provisions of the MPA 2007 to deal with matters directly relating to Part 9 of the MPA 2007 (all references to Part 9 refer also to consideration of cases under Part V of the Medical Practitioners Act 1978);
- 'A section 60' refers to a Council meeting convened to consider the making of an ex parte application to the Court for an order to suspend the registration of a registered medical practitioner under section 60 of the MPA 2007;
- 'Committee' with a capital refers to Committees formally established by the Council with that title;
- 'committee' or 'groups' in lower case is a generic term referring to any other grouping that the Council may establish and relates to subcommittees, working groups, advisory groups;
- 'Executive' refers to the Chief Executive Officer and the Management Team who are responsible for the implementation of Council policies and the operational management of the Medical Council other than where otherwise provided for in the MPA 2007.
- 'resolution' includes an amendment to a resolution, and all provisions of these s
- Standing Orders which apply to resolutions shall apply to amendments to resolutions unless these Standing Orders specify otherwise.

### 1. AUTHORITY and FUNCTIONS

- 1.1 The Medical Council is established by the Medical Practitioners Act 1978 and continues in being under the provisions of section 4 of the Medical Practitioners Act 2007 as amended by the Health (Miscellaneous Provisions) Act 2007 ('the MPA 2007').
- 1.2 Section 5 of the MPA 2007 provides for the seal of the Medical Council.
- 1.3 *The object of the Council 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* (Section 6 of the MPA 2007).
- 1.4 Council undertakes *inter alia* to fully engage with the principle of openness and transparency, adhering to and honouring the provisions of MPA 2007 in spirit as well as in fact.

## 2. MANDATE

2.1 The Medical Practitioners Act 2007 (as amended) defines the purpose of the Medical Council as

*"better protecting and informing the public in its dealings with medical practitioners and, for that purpose, to introduce measures, in addition to measures providing for the registration and control of medical practitioners, to better ensure the education, training and competence of medical practitioners, to investigate complaints against medical practitioners and to increase the public accountability of the Medical Council".*

2.2 In accordance with the Code of Practice for the governance of State Bodies, the Council should meet regularly, provide strategic leadership, retain full and effective control over the organisation and monitor executive management and performance. The collective responsibility and authority of the Council should be asserted and maintained.

2.3 All Members of the Council (including those elected under section 17(8) of the MPA 2007) are appointed by the Minister for Health and Children and are accountable to the Oireachtas through the Minister for the development and implementation of policy. The principal role of the Council in this regard is:

- To ensure that the Council carries out its responsibilities as set out by statute;
- To provide leadership, vision and direction for the organisation;
- To define the mission of the Council in accordance with its stated policy, decide its strategic goals and develop the policies required to achieve those goals
- To ensure that the Council is well managed, to monitor the achievements of management and ensure that a proper balance is achieved between the respective roles of the Council and the management;
- To set performance targets, including key financial targets and, in particular, to agree and closely monitor the budget;
- To ensure that the Council behaves ethically and in a manner that accords with the core values of the organisation;
- To define and promote the Council's role in the community by developing mechanisms for gathering the views of the public, registrants and other interested parties and by keeping people informed in an open, accountable and responsible way;
- To agree the short and long-term performance objectives of the Chief Executive Officer in consultation with that office-holder.

2.4 The Council shall approve the five-year statement of strategy and business plan in accordance with sections 13 to 15 of the MPA 2007 and shall review performance against the plan.

2.5 The five keys areas of responsibility of the Council are:

- 2.5.1 Setting and monitoring standards of medical education and training at basic and post-graduate levels.
- 2.5.2 Establishing appropriate criteria for the registration of doctors and registering eligible medical practitioners in accordance with those criteria.

- 2.5.3 Setting standards in respect of medical practice, ethics and behaviour and investigating alleged breaches of these standards.
  - 2.5.4 Instigating appropriate measures in respect of doctors against whom complaints have been made, including allegations of misconduct or unfitness to practise, and taking appropriate disciplinary action, including erasure from the register, where such allegations have been upheld; (more serious sanctions being subject to confirmation by the courts).
  - 2.5.5 Setting standards in respect of attaining and maintaining professional competence to practise, establishing systems to provide evidence of compliance with those standards and taking appropriate action when an issue of poor performance arises.
- 2.6 The functions of the Council are detailed in Section 7 of the MPA 2007 and, in addition to the above include but are not limited to:
- 2.6.1 The role of the Council as the competent authority for the purposes of the mutual recognition of medical qualification awarded in or recognised by Member States.
  - 2.6.2 To advise the public on all matters of general interest relating to the functions of the Council, its area of expertise and other matters of interest to the public relating to the practice of medicine and medical practitioners, including public advertisement of the object, functions and contact details of the Council from time to time.
  - 2.6.3 To carry out such other functions relevant to the Board of a statutory body in respect of business matters including the appointment of a Chief Executive in accordance with section 24 of the MPA 2007.
  - 2.6.4 The Council approves the Code of Conduct applicable to employees, Council Members and members of other Committees and group, nominated experts and any other persons appointed to act on behalf of the Council.
  - 2.6.5 The Council appoints the internal financial auditor.
  - 2.6.6 The Council approves the investment policy, major investments, capital projects and the terms of major contracts.
  - 2.6.7 Significant acquisitions and the disposal or retirement of assets above a threshold set by the Council is subject to Council approval.
  - 2.6.8 The Council makes an annual report on the activities of the Council, including a financial statement, to the Minister for Health and Children in accordance with section 16 of the MPA 2007. The report is published.

The Council selects and appoints the Chief Executive Officer in accordance with Section 24 of the MPA 2007. The terms of office and the remuneration of the Chief Executive Officer are determined by the Council with the prior approval of the Minister.

### **3. RESERVED FUNCTIONS AND DELEGATED FUNCTIONS (See Appendix A)**

- 3.1 The Chief Executive Officer is appointed by the Council to manage the administration and business of the Council and holds office in accordance with, *inter alia*, the provisions of section 24 of the MPA 2007.
- 3.2 The Council can delegate any of its functions to a committee or the Chief Executive Officer, subject to the restrictions described below. The Council shall review the delegation of functions annually. The Council will remain responsible for any decisions taken, including those relating to a function delegated to a committee or individual.

- 3.3 The Council may decide, from time to time, that the function defined in section 2(a) "*establish and maintain the register*", may be delegated to the Chief Executive Officer but only in accordance with procedures and criteria established "for registration including the issue of certificates of registration and renewal of registration".
- 3.4 The following functions **can not** be delegated:
- The election or removal of the President or Vice-President (Schedule 2)
  - A request to the Minister to terminate the appointment of a Member (Schedule 2)
  - The appointment of the Chief Executive Officer (Section 19)
  - The establishment of committees and delegation of functions (sections 20 & 24)
  - The making of Rules under section 7 of the MPA 2007 (section 7)
  - The function defined in section 2 subsections (b) to (k)
- 3.5 The following functions **can** be delegated to a committee, but cannot be delegated to an individual, even in urgent cases:
- The alteration, discontinuance or change of recognition of a body under Part 10 of the MPA 2007;
  - The approval of the first formal budget plan of the financial year.
- 3.6 The Council can still perform functions it has delegated. This enables the Medical Council to take decisions on matters that are discussed at meetings on functions that have been delegated.
- 3.7 Any individual or committee to whom a decision has been delegated shall report to the Council in respect of any action or decision made.

#### 4. THE OFFICES OF THE PRESIDENT AND OF THE CHIEF EXECUTIVE OFFICER

- 4.1 The Council shall elect one of its Members eligible under section 17(3) of the MPA 2007 to hold the office of President in accordance with article 13 of Schedule 2 of the MPA 2007. The Council shall also elect one of its Members eligible under section 17(3) of the MPA 2007 to hold the office of Vice-President in accordance with article 13 of Schedule 2 of the MPA 2007. If the President resigns, the resignation takes effect at the start of the next meeting of the Council.
- 4.2 The Council shall approve the job description of the post of Chief Executive Officer (CEO) and appoint a suitably qualified and experienced person to the post.
- 4.3 A description of the roles of the President and of the CEO is set out below. In the event of any conflict between these and the roles set out in the MPA 2007, the latter shall prevail.

##### 4.4 **Role of the President**

The President, as Chairperson of the Council, reports to the Council and is the guardian of the Council's decision-making process. He/she is not responsible for the day-to-day operational matters regarding the Medical Council's business.

The President has responsibilities additional to those of other Council Members, particularly in relation to leadership, the conduct of Council meetings and reporting to the stakeholders. These include, but are not be limited to:

##### *Council and Members*

- Ensuring that the Council as a whole plays a full and constructive part in the development and determination of the Medical Council's strategy and overall objectives.
- Providing effective leadership and giving strategic direction to the Council.
- Ensuring that Council Members understand their corporate roles and responsibilities.
- Ensuring that Council determines the priority that attaches to its decisions and that these are conveyed clearly to the Executive through the CEO.
- As the accountable person, ensuring that Council's strategy and objectives/ decisions are implemented by the CEO.
- Ensuring that the Council receives accurate, timely and clear information on:
  - the Medical Council's performance;
  - the issues, challenges and opportunities facing the Medical Council (specifically overseeing the appropriate implementation of risk management in the Medical Council);
  - matters reserved to it for decision.
- Arranging informal meetings of the members as required, to ensure that sufficient time and consideration is given to complex, contentious or sensitive issues.
- Monitoring, together with the Chief Executive Officer and Secretary to the Council, adherence to and respect for the Standing Orders and the Code of Conduct.

- Chairing the Nomination Sub-Committee, and, in that role, initiating change and succession planning in Council appointments to
  - retain and build an effective and balanced Council;
  - facilitate the appointment of effective and suitable Members and Chairs of Council Committees.
- Assessing the Council's performance relative to its strategy, stated principles and Business Plan
- Managing public announcements of Council decisions or policy directly or by designating a Council member or Council officer to do so.

#### *Council Meetings*

- Ensuring that, at the beginning of each meeting, any potential conflict of interest involving any Member is declared regarding any particular item to be discussed by the Council.
- Ensuring at the end of each meeting that the CEO is fully apprised of the Council's priorities and that a timetable for executive response to Council's decisions is agreed.
- Aiming to achieve consensus on issues discussed by the Council, and where necessary in the case of major issues, arranging informal meetings to explore how such consensus might be achieved.
- Ensuring that the Council carries out its functions efficiently and effectively so that:
  - all planned business is dealt with and each item of business has reached a conclusion in so far as is practicable or possible;
  - the Council delegates sufficient authority to its committees, its officers, the CEO and Management Team to enable the business of the body to be carried on effectively between meetings;
  - the Council receives external professional advice when needed.

#### *Reporting*

- Reporting on the activities of the Council to the Medical Council's stakeholders as appropriate
- Communicating feedback from major stakeholders to Members of the Council to ensure their understanding of the views and perspectives of these stakeholders.
- Taking lead responsibility in representing the Council in meetings with the Minister and Oireachtas committees.
- Ensuring the timely preparation and publication of the Annual Report, reporting, as required under the Code of Practice for the Governance of State Bodies, the important aspects of the body's operations in the preceding year, including:
  - Regulatory matters as defined in the MPA 2007 (as amended);
  - Commercially significant developments;
  - Financial reporting, auditing and controls;
  - Codes of business conduct for directors and employees;
  - Compliance with government remuneration guidelines;
  - Post-balance sheet events;
  - Proposals for capital expenditure.

*Chief Executive Officer*

- Maintaining an effective working relationship with the CEO and other senior staff.
- Overseeing the CEO's implementation of Council decisions.
- Setting and assessing annual performance targets for the CEO in consultation with the remuneration committee.

4.5 The President and Council Members may be paid an allowance in accordance with section 22 of the MPA 2007 as determined by the Minister for Health and Children with the consent of the Minister for Finance section 20 of the MPA 2007.

4.6 **Role of the Chief Executive Officer**

The CEO reports to the President and is accountable to the President and to the Council. The CEO has overall responsibility for implementing the decisions of the Council, while the President is accountable for ensuring that the CEO has implemented same.

The duties of the CEO include, but are not be limited to:

*President, Council, Committees and Working Groups*

- Maintaining a dialogue with the President on the important and strategic issues facing the Medical Council, and proposing Council agendas to the President which reflect these.
- Ensuring that the President is alerted to any forthcoming complex, contentious or sensitive issues affecting the Medical Council of which he/she might not otherwise be aware.
- Ensuring that the Council has timely and accurate information to fulfil its statutory objectives and functions.
- Working with the President to develop the Medical Council's strategy and overall objectives.
- Implementing the Medical Council's annual business and corporate plans.
- Ensuring that risk identification, measurement and mitigation strategies are in place.
- Ensuring that all decisions and policies of the Council, or those that are delegated to Committees or Working Groups, are implemented.
- Ensuring that systems, procedures and practices of the Medical Council are in place for evaluating the effectiveness of its operations.
- Setting out and agreeing with the President and Council a schedule to commence all parts of the MPA 2007.

*Compliance*

- Advising the Council on legal/statutory/procedural issues pertaining to the Council's statutory responsibilities.
- Ensuring that the Council is fully compliant with all parts of the MPA 2007 that have been commenced.

- Ensuring that the Council is fully compliant with policy outlined in the corporate governance documents.

*Operational (to include but not limited to)*

- Taking responsibility for the effective administration of the Council. This includes ensuring that an appropriate organisational structure is in place and is adequately resourced.
- Ensuring that all Committees, sub-Committees and Working Groups receive draft minutes and other relevant documentation in a timely fashion (as specified in the Standing Orders).
- Putting in place and overseeing effective development and training programmes for staff members:
  - to improve their current performance,
  - to develop their skills in line with the strategic goals of the Medical Council and
  - to facilitate their longer-term personal development goals.
- Putting in place and ensuring the successful implementation of an effective performance management development system for all staff, including
  - arranging for performance reviews to be carried out at least once a year for all staff, and
  - taking personal responsibility for the evaluation of each senior manager.
- Putting in place and overseeing training programmes for members of Council, Council committees and working groups and in particular for members of Fitness to Practice hearing panels.
- Agreeing with the President proposals for recruitment, selection and dismissal of all senior Medical Council appointees.
- Making any amendments to the organisational structure of the operational management team in consultation with the President.
- Preparing a financial plan detailing Council expenditure that must be ratified and approved by the President and Council Members.
- Preparing agendas and supporting documentation and material, in consultation with the Head of Finance, for the Audit Committee, and ensuring that the Audit Committee is adequately resourced to carry out its main functions of financial accounting, risk management and mitigation.
- Preparing and presenting all financial accounts to Council.
- Ensuring that, where unforeseen circumstances arise, any variance on the expenditure presented must be first approved by the Audit Committee and the President.
- Representing the Council in public when so required, on request of the President and with the approval of the Council.
- Approving, in consultation with the President, decisions to respond to cases brought to the courts under the MPA 2007.

The Chief Executive Officer is also responsible for specific statutory responsibilities set out in the MPA 2007 including, for example, presentation of evidence at the Fitness to Practice Committee. These duties are not repeated here.

## 5. SECRETARIAL SUPPORT TO THE COUNCIL

**Note: This Section sets out the secretarial support which should be provided to the Council, both by the Secretary and by in-house staff and legal counsel.**

The Section sets out the principles which should apply to the operation of the Council. In consultation with the President and CEO, the role of Council's Secretary shall include:

- Organising training for Members (both on joining Council and thereafter).
- Ensuring the smooth running of the Council's and Council Committees' activities by helping the Chairman to set agendas, preparing and presenting papers to the Council and Council Committees, advising on Council procedures and ensuring the Council follows them.
- Keeping under close review all legislative, regulatory and corporate governance developments that might affect the Council's operations, and ensuring the Council is fully briefed on these and that it has regard to them when taking decisions.
- Ensuring that the Council is aware of the importance of engaging with stakeholders when important business decisions are being taken.
- Keeping in touch with the debate on Corporate Social Responsibility and stakeholders, and monitoring all developments in this area and advising the Council in relation to its policy and practices with regard to Corporate Social Responsibility and its reporting on that matter.
- Acting as a confidential sounding board to the President, Council Members and the Executive on points that may concern them, and taking a lead role in managing difficult inter-personal issues on the Council e.g. the exit of the Members from the Council.
- Acting as a primary point of contact and source of advice and guidance for, particularly, Council Members as regards the Council and its activities in order to support the decision making process.
- Ensuring, where applicable, that relevant corporate governance standards and/or disclosures are observed and, where required, reflected in the annual report of the directors – the Secretary usually takes the lead role in drafting the annual report, including the Remuneration disclosures and agreeing these with the President, Council and Council Committees.
- Ensuring compliance with the specific governance requirements in the Council's governing legislation.
- Managing relations with key stakeholders with regard to corporate governance issues and the Council's practices in relation to corporate governance.
- Ensuring compliance with all statutory filings, returns, filing of resolutions and any other filings required to be made.
- Making arrangements for and managing the whole process of the annual reporting in accordance with legislative requirements.

**6. URGENT DECISIONS**

- 6.1 Between meetings, it may be necessary for the Council to take urgent decisions for the proper functioning of the Council, for example, under section 60 of the MPA 2007. Urgent decisions may be taken by convening an extraordinary meeting, by telephone, by telephone conference or by video-conference. In each case, all reasonable efforts will be made to contact Members to attend.
- 6.2 A full report on the outcome of the urgent business and the decisions taken shall be presented at the next general meeting of the Council in accordance with the 'Standing Orders' document.

**7. LEGAL PROCEEDINGS**

- 7.1 The Council shall retain, as necessary, the services of an external firm of solicitors to act on behalf of the Council in all matters relating to the holding of inquiries or cases in the courts to which the Council is a party.

**8. AUTHENTICATION AND SEALING OF DOCUMENTS**

(wording to follow)

**9. GENERAL PROVISIONS**

- 9.1 Members of the Council will be paid travelling and subsistence allowances in accordance with section 21 of the MPA 2007 and in line with the 'Council Members' Expenses Policy' approved by the Council.
- 9.2 Members may also be entitled to the payment of an allowance in accordance with section 22 of the MPA 2007 as determined by the Minister for Health and Children with the consent of the Minister for Finance.
- 9.3 These terms of reference are adopted by the Council and are made public.
- 9.4 The Council will review these Terms of Reference from time to time as necessary and make changes where appropriate. This review shall take place from time to time as necessary, but at least once during the term of the Council (usually midway through the term).

## **Appendix A – Reserved Functions of the Council**

### **Strategy and management**

1. Approval of the Council's long-term objectives and strategy.
2. Approval of the annual operating and capital expenditure budgets and any material changes to them.
3. Oversight of the Council's operations ensuring:
  - competent and prudent management
  - sound planning
  - an adequate system of internal control
  - adequate accounting and other records
  - compliance with statutory and regulatory obligations.
4. Extension of the Council's activities into relevant new areas consistent with its statutory functions.
5. Any decision to make material changes to the Council's business.

### **Structure and capital**

1. Major changes to the Council's corporate structure or legal status.
2. Changes to the Council's management and control structure.
3. Financial reporting and controls.
4. Approval of the annual report and accounts including any significant changes in accounting policies or practices.
5. Approval of treasury policies.

### **Internal controls**

1. Ensuring maintenance of a sound system of internal control and risk management including:
  - receiving reports on, and reviewing the effectiveness of, the Council's risk and control processes to support its strategy and objectives
  - undertaking an annual assessment of these processes
  - approving an appropriate statement for inclusion in the annual report.

### **Contracts**

1. Major capital projects over €0.5 million.
2. Contracts which are material strategically or by reason of size, entered into by the Council [or any subsidiary] in the ordinary course of business, for example bank borrowings [above €1 million] and acquisitions or disposals of fixed assets [above €1 million].
3. Contracts of the Medical Council not in the ordinary course of business, for example loans and repayments [above€1 million]; major acquisitions or disposals [above €1million].
4. Major investments

### **Communication**

1. Public announcements of Council decisions or policy will be made by the President or by a Council member or Council officer designated to do so by the President. In the President's absence the Vice-President will fill this role.

### **Council membership and other appointments**

1. Election of the President.

2. Appointment of a chief executive.
3. Membership and chairmanship of Council committees.
4. Changes to the structure, size and composition of the Council's committees and Working Groups, following recommendations from the Nominations Sub-committee.
5. Ensuring adequate succession planning for the Council, Committees, Working Groups and CEO.
6. Appointment, reappointment or removal of the external auditor, following the recommendation of the audit committee.

### **Remuneration**

1. Determining the remuneration policy for the Members and the Chief Executive.

### **Delegation of authority**

1. The division of responsibilities between the President and the CEO which should be in writing.
2. Approval of terms of reference of Council committees.
3. Receiving reports from Council committees on their activities.

### **Corporate governance matters**

1. Undertaking a formal review annually of its own performance, that of its committees and individual Members.
2. Determining the independence of Members.
3. Considering the balance of interests between registrants, employees, other stakeholders and the public.
4. Review of the Council's overall corporate governance arrangements.
5. Receiving reports on the views of the company's key stakeholders.

### **Policies**

1. Approval of policies, including:
  - Code of Conduct
  - Health and safety policy
  - Communications policy
  - Corporate social responsibility policy

### **Other**

1. Approval of the appointment of the Council's principal professional advisers.
2. Prosecution, defence or settlement of litigation [involving above £1 million or being otherwise material to the interests of the Council].
3. Approval of the overall levels of insurance for the Council including directors' & officers' liability insurance and indemnification of Members.
4. This schedule of matters reserved for Council decision.