



Comhairle na nDochtúirí Leighis
Medical Council

What to do if called to give evidence

An information guide for witnesses

Contents

Being a witness	2
Inquiry centre	2
Support and assistance	2

Before attending the inquiry

How the case is prepared	3
What happens if I am called to give evidence?	3
Am I obliged to give evidence to the inquiry?	4
Support for people with disabilities	4
Other help available	4
Talking to someone about being a witness	4
The inquiry date	5
Will the inquiry be public or private?	5
Meeting the doctor and other witnesses	5

Attending the inquiry

Day of the inquiry	6
Waiting to give evidence	6
Public access to the inquiry	6
Who will be at the inquiry?	7

Giving evidence

What happens when I give evidence?	8
Examination and cross-examination	8
Adjournments	9
After you give evidence	9
End of inquiry	9

Useful information

Claiming expenses	11
Giving feedback	11
Things to remember	11

Glossary

12

Being a witness

This document tells you what happens when you are called to give evidence at inquiries before the Fitness to Practise Committee of the Medical Council.

Being a witness at an inquiry is very important. When giving evidence to the Fitness to Practise Committee, you are helping the Committee by giving them first-hand information so that they can decide:

- whether an alleged event involving a doctor happened; and
- whether the doctor's behaviour amounted to professional misconduct or poor professional performance or showed that the doctor is suffering from a relevant medical disability. (Please see the glossary on page 12 for an explanation of these terms.)

As a witness, you will be asked to give factual evidence to the Committee, not your opinion about what happened.

Inquiry centre

The inquiry will be held at our inquiry centre at Kingram House, Kingram Place, Dublin 2. You should be prepared to travel and perhaps stay overnight if required. We will try to let you know beforehand if you will need to stay overnight.

Support and assistance

We understand that the inquiry process can seem formal and unfamiliar. However, our Professional Standards staff and the solicitors acting on behalf of the Chief Executive Officer (the CEO) are available to help you throughout the inquiry process.

If you would like to discuss any aspect of the inquiry process before the inquiry starts, please contact the Professional Standards staff or the solicitors for the CEO.

Before attending the inquiry

How the case is prepared

When we receive a complaint about a doctor, our Preliminary Proceedings Committee must decide whether the case should go on to become an inquiry before the Fitness to Practise Committee. If the Preliminary Proceedings Committee decides that an inquiry is needed, it will refer the matter to the Fitness to Practise Committee for a sworn oral hearing.

To prove that the alleged event happened, the Medical Council must gather evidence about the event. This evidence may include reports, medical records, correspondence (such as letters and e-mails) and written witness statements.

Sometimes, witnesses will be called to give evidence about an event they saw or heard. Witnesses may also be called to confirm, for example, that the records or documents being reviewed contain their handwriting or are part of their file.

What happens if I am called to give evidence?

1. The solicitors for the CEO will arrange a telephone call or a meeting with you to prepare a statement of the evidence that you will give to the Fitness to Practise Committee.
2. This statement will be sent to you for your review.
3. If you want to make any changes to the statement, you should contact the solicitors for the CEO so that they can make the changes.
4. The solicitors for the CEO will then send an amended statement to you to sign.
5. This signed statement, together with the initial draft statement, must be sent to the solicitors for the doctor involved.
6. On the day of the inquiry, you will be asked to give evidence to the Fitness to Practise Committee in relation to both of these statements.

Am I obliged to give evidence to the inquiry?

Yes. If you have difficulty with your employer allowing you to attend the inquiry or if you are reluctant to attend, we may have to serve a formal summons. This summons is a legal requirement to appear at an inquiry. If you ignore a summons, the Fitness to Practise Committee may apply to the High Court for an order requiring you to appear before the Committee (or whatever order the High Court decides). It is a criminal offence not to comply with a witness summons and you may be prosecuted. Please note that a summons to attend an inquiry overrides any other commitments that you may have.

Support for people with disabilities

The inquiry centre has wheelchair access. If you have any special needs, please discuss them with the Professional Standards staff or the solicitors for the CEO before the inquiry so that we can make arrangements to make it easier for you to give your evidence.

Other help available

If you have any concerns about giving evidence, please raise them at an early stage with the Professional Standards staff or the solicitors for the CEO. They will discuss your circumstances with you and let you know whether any adjustments can be made or special measures put in place to help you give your evidence.

Talking to someone about being a witness

Being a witness can be a stressful experience. We would encourage you to discuss your concerns with the Professional Standards staff or the solicitors acting for the CEO.

However, please remember that you must not discuss the case or your evidence with anyone else, including other witnesses.

The inquiry date

We will contact you to discuss an inquiry date and your availability to appear as a witness. Where possible, we will arrange the inquiry date for a time that suits you. However, this may not be possible, as other factors will affect the date, as will the need to accommodate many other people. Please tell the solicitors for the CEO as soon as possible about any commitments you may have.

Please also let the Professional Standards staff or the solicitors for the CEO know as soon as possible about any special travel or hotel accommodation needs, for example if you are a wheelchair user or if you have a visual impairment.

Will the inquiry be public or private?

Inquiries are held in public except in certain circumstances. As a witness you may wish to apply to the Fitness to Practise Committee for the inquiry to be held in private. If doing so, you will be asked to give your reasons in writing. The Fitness to Practise Committee will consider your application and decide whether the application shows 'reasonable and sufficient cause'.

If the inquiry is held in public, any member of the public may attend. The media will know about the inquiry and will have the right to cover it. Photographers and television cameras may be present at the inquiry.

Meeting the doctor and other witnesses

Many people may be asked to attend the inquiry and give evidence. The doctor, his or her legal representatives and any witnesses who are giving evidence on behalf of the doctor will also attend. Therefore, it is likely that you will meet other people involved in the case.

Attending the inquiry

Day of the inquiry

We will give you a specific time to be at the inquiry centre. Please give yourself plenty of time for your journey and aim to arrive at least half an hour early. When you arrive, please go to the reception desk to receive a visitor pass and directions to the witness waiting room.

Waiting to give evidence

You will be asked to wait in the witness waiting room with the other witnesses until you are called to give your evidence. No witness (except an expert witness) is allowed to be present during the inquiry before they give their evidence. While you are waiting to give evidence, you must not discuss the case or your evidence with anyone else, including other witnesses, as this might influence the case.

We try to operate inquiries as quickly as possible, but sometimes they can overrun and witnesses may have to wait a while before giving their evidence. If your evidence is not heard on the day due to a delay or a change in circumstance, you will be asked to return on another day. If you have received a formal summons to attend, that summons will be valid for the next inquiry day and every day after that until you have given your evidence.

Public access to the inquiry

If the inquiry is held in public, there will be a public 'gallery' where the media and public can sit to watch and listen to the proceedings. This is usually at one side of the inquiry room. Sometimes, the Fitness to Practise Committee will ask the media, the public and witnesses to leave the inquiry if there are any confidential matters to discuss. If this happens, you will be brought back to the witness waiting room until the inquiry restarts.

Who will be at the inquiry?

The Fitness to Practise Committee - this normally includes two non-medical people and one doctor. One member of the Committee will act as chairperson and make sure that the inquiry is conducted fairly.

Legal Assessor - this is a Senior Counsel (barrister) who will sit with and advise the Fitness to Practise Committee. The Legal Assessor will not take part in any decision making but will give advice and information to the Committee on the law and procedure.

CEO's legal representatives - these will include a barrister and/or solicitor who will present the case against the doctor and will question the witnesses so that they can give their evidence.

Doctor - this is the person against whom the allegations have been made.

Doctor's legal representatives - these will include a barrister and/or solicitor who will present the case or speak on behalf of the doctor. They will put the doctor's position to the Fitness to Practise Committee and will question the witnesses about their evidence. Some doctors choose not to have any legal representatives and will defend their own case.

Stenographer - this person records all the evidence given at the inquiry.

Giving evidence

What happens when I give evidence?

When you are called to give evidence, you will be brought to the inquiry room and shown to the witness table. The chairperson of the Fitness to Practise Committee will introduce himself or herself and the other members of the Fitness to Practise Committee to you.

A Medical Council staff member will ask you to swear an oath or to make a statement as to the truth of your evidence.

When answering questions, you should speak clearly and slowly into the microphone on the witness desk so that everyone present can hear your evidence. You should address your answers to the Fitness to Practise Committee.

The Fitness to Practise Committee will not know in advance what evidence you will give and you should bear this in mind when giving your evidence.

If you do not understand a question, please ask for it to be repeated.

If you need to take a break during your evidence, you should ask the Chairperson of the Fitness to Practise Committee. This will usually be allowed.

Examination and cross-examination

The CEO's legal representative will ask you questions based on your witness statement. The doctor or his legal representative and the Fitness to Practise Committee may also ask you questions. You will not be able to have your witness statement with you when you give evidence, but you may read it while you are in the witness waiting room.

While you are giving your evidence, the legal representatives on both teams may show you other documents. Take your time to read each document carefully.

Adjournments

The inquiry will adjourn (stop) for lunch or at the end of each day, if the inquiry lasts for more than one day. The Fitness to Practise Committee may also adjourn the inquiry for a longer period to get additional evidence or because it has become clear that the inquiry will take longer to complete.

It is extremely important that you do not talk to anyone about the case or about your evidence during an adjournment. This includes the solicitors for the CEO, anyone else involved with the case and your family or friends. If you do not follow this rule, it could seriously affect the outcome of the inquiry.

After you give evidence

When you finish giving your evidence, you may leave. If the inquiry is being held in public, you may choose to stay to listen to the rest of the day's proceedings. If you choose to stay, you will be shown where to sit.

If the inquiry is being held in private, you may not stay unless you are given permission to do so by the Fitness to Practise Committee. You should tell the solicitor for the CEO before the inquiry if you want to apply to the Fitness to Practise Committee for permission to stay.

End of inquiry

When all the evidence has been heard, the Fitness to Practise Committee will draw up its report. This will state whether the allegation against the doctor has been proven and whether the Committee will recommend a punishment. This report may be drawn up on the day of the inquiry or at a later date.

The Medical Council will consider the report at its next meeting and decide on the punishment, if any, to be imposed on the doctor. The Council may impose one or more of these sanctions on the doctor:

- advise, admonish (warn or caution) or censure (reprimand) the doctor in writing;
- censure the doctor in writing and fine him or her up to €5,000;
- attach conditions to the doctor's registration;
- transfer the doctor's name to another division of the register;
- suspend the doctor's registration for a specific length of time;
- cancel the doctor's registration;
- not allow the doctor to apply to put their name back on the register for a specific length of time after their registration has been cancelled.

We may tell you of the outcome of the inquiry when it has been completed. If you do not hear from us, you may contact the solicitors for the CEO or the Professional Standards staff, who will tell you the outcome if it is known.

If the Council decides on a penalty, the doctor has 21 days to appeal this decision to the High Court. Appeals to the High Court are held in public. The case is re-heard in full and you may be called as a witness to give evidence at the appeal.

Useful information

Claiming expenses

We will send you details on how to claim for reasonable out-of-pocket expenses to which you may be entitled. These expenses may include:

- travel expenses,
- accommodation expenses, and
- refreshments and meals.

You must provide receipts for all out-of-pocket expenses. You should send expenses claims and receipts to the Professional Standards Section of the Medical Council. Please note that we will pay expenses for Medical Council witnesses only and not your solicitor's fees.

Giving feedback

We welcome any comments you might have following your experience as a witness. Please let us know what you think by writing to us.

Things to remember

- Make sure you have all the information you need before the day of the inquiry.
- Check that you know the location of the inquiry centre. If you are unsure, please ask the Professional Standards staff or the solicitors for the CEO for directions and a map.
- Be on time for the inquiry and any meeting beforehand.
- Make sure that you bring with you all original documents, even if you have already given copies to the solicitors for the CEO.
- If you think of any additional information or evidence that you believe may be relevant to the inquiry, please tell the solicitors for the CEO or the Professional Standards staff as soon as possible, as it may be too late to tell them on the day of the inquiry.
- Keep your receipts.

Glossary

You may not be familiar with some of the terms used in this leaflet.

We have explained these below.

Admonish - to reprimand (criticise) firmly.

Allegation - the charge or charges faced by the doctor because of the complaint.

Adjournment - a break in the inquiry before it has completed its deliberations. The inquiry will adjourn for lunch, comfort breaks and at the end of each day, if it lasts for more than a day. An adjournment may also be agreed to get additional evidence or if the inquiry has overrun.

Censure - to criticise strongly

Chairperson - the person who manages the Fitness to Practise Committee. The chairperson is also a member of the Fitness to Practise Committee and makes sure that the inquiry is conducted fairly.

Cross-examination - being questioned by barristers, solicitors or the Fitness to Practise Committee when giving evidence.

Evidence - what a witness says at the inquiry and documents or other records, including photographs, that are brought before an inquiry.

Expert witness - a witness able to give opinions on any matter falling within his or her area of expertise.

Inquiry - a hearing similar to a hearing before a court or tribunal.

Legal Assessor - a Senior Counsel (barrister) who advises the Fitness to Practise Committee.

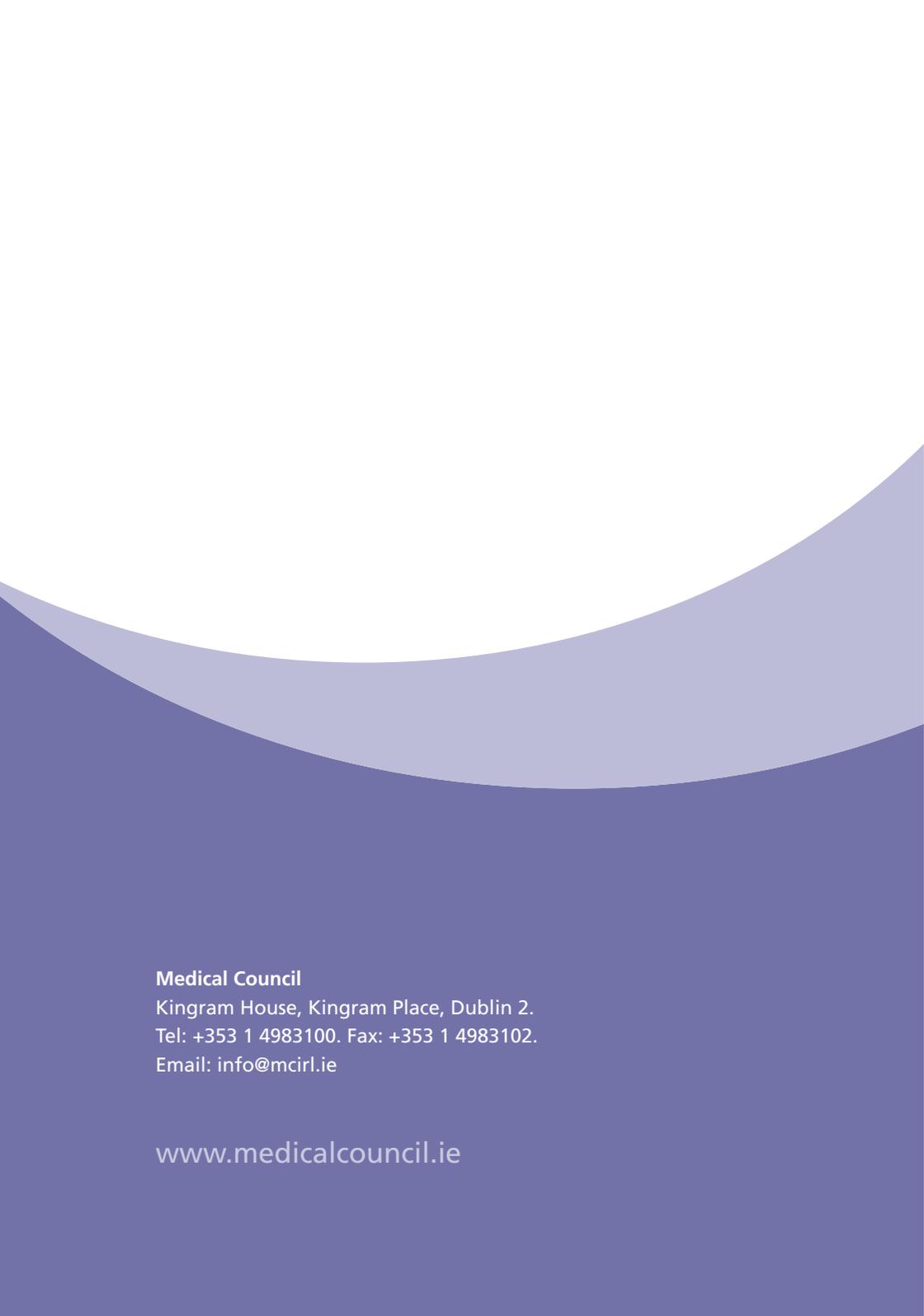
Fitness to Practise Committee - a small group made up of at least one medical and two non-medical people.

Poor professional performance - a failure by the doctor to meet the standards of competence (whether in knowledge and skill, the application of knowledge and skill or both) that can reasonably be expected of doctors practising the kind of medicine that is practised by the doctor.

Professional misconduct - conduct that experienced, competent and reputable doctors consider disgraceful or dishonorable; conduct that falls short of the standards of conduct expected of doctors.

Relevant medical disability - a physical or mental disability (including addiction to alcohol or drugs) that may impair the doctor's ability to practise medicine or a particular aspect of medicine.

Sanction - the type of penalty that the Medical Council can put on a doctor.



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