



ICGP Policy on support of a trainee who is under review by the Medical Council

Adopted by PGTC – January 2016

Updated by PGTC in Jan 2017

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Introduction

This is the ICGP policy to support a doctor engaged in GP training who becomes subject of a complaint to the Medical Council. Notification of a complaint by post by the Medical Council to the doctor in question is often the first a trainee may know about an incident involving the doctor which may have led the patient to contact the Medical Council. The angst and stress which is the natural reaction to receiving such a letter is acknowledged by college and this policy is to serve as a guide and support to the doctor in training.

In contrast to practicing GPs who arranges professional indemnity privately, the doctor in training does not always have access to legal advice or representation should they become subject to a complaint to the Medical Council. The MPS have an inexpensive insurance policy available to doctors in training to cover this situation and it is hoped that other insurance bodies will have this available soon too. On a more positive note, the Supreme Court has, in February 2015, directed the Medical Council that for cases to be referred from the Preliminary Proceedings Committee to the Fitness to Practice Committee a threshold of seriousness must exist – the case must be legally deemed to be of a serious nature.

What Happens when a complaint is made about a doctor?

The following is a synopsis from the publication available on the Medical Council Website “What to do if a complaint is made about you”. Full reading of this Medical Council Document is advised.

- *When the medical council receives a complaint, a case officer is assigned to help the Preliminary Proceedings Committee (PPC) investigate the complaint.
The case officer will:*
 - *write to the person who has made the complaint (complainant) and tell them that the MC have got their complaint; and*
 - *send a copy of the complaint to the doctor.*

- *The Preliminary Proceedings Committee (PPC) of the Medical Council assess complaints to see if they fit into one of the following categories:*
 - *Professional misconduct*
 - *Poor professional performance*
 - *Relevant medical disability*
 - *Failure to comply with one or more condition(s) attached to registration*
 - *Failure to comply with an undertaking given to the Medical Council or to take any action specified in a consent given in the context of a previous inquiry*
 - *Contravention (infringement) of the Medical Practitioners Act 2007*
 - *Being convicted in the State for an offence triable on indictment.*

- *At its next meeting, the PPC will then look at the complaint and may ask for more information or documents from the complainant, the doctor, or any other people involved, such as a hospital. The PPC has the power to get documents to help it make its decision. The case officer assigned to the complaint will contact the doctor about any decisions made by the PPC.*

- *When the PPC is satisfied that it has enough information, it will then decide what action to take:*
 - (a). *If the PPC believes that **there is a case to take further action** it will refer the complaint to the Fitness to Practise Committee for an inquiry. **Or***

 - (b). *If the PPC decides **not to refer** the complaint to the Fitness to Practise Committee it will give an opinion to the Medical Council that:*
 - *they should take no further action; **or***
 - *the complaint should be referred to another body or authority or to the Medical Council's professional competence scheme (when Part 11 of the Act comes into effect); **or***
 - *the complaint could be resolved by mediation or other informal methods. Both the doctor and the complainant need to agree to this.*
 - *The PPC does not make a decision on the facts of the complaint, nor does it decide whether the complaint is proven. It only provides an opinion to the Medical Council on what action, if any, the Council should take about the complaint.*

- *If the PPC or Medical Council refers the complaint to the Fitness to Practise Committee for an inquiry the Medical Council will write to the doctor to inform him/her of this decision. As soon as possible after the decision has been made, the Medical Council's solicitors will send the doctor:*
 - *notice of the allegations;*
 - *evidence in support of the allegations, on which the Chief Executive Officer of the Medical Council will rely on at the inquiry;*
 - *the date or dates proposed to hold the inquiry and details of the venue for the inquiry; and*
 - *notification that the doctor can apply to have some or all of the inquiry held in private.*

- *An inquiry is a hearing similar to a hearing before a court or tribunal. An inquiry usually takes place within six months from the date of the decision to hold it.*

- *The Medical Council will usually look at the Fitness to Practise Committee's report within eight weeks of the end of the inquiry. If the Committee finds that the allegations against the doctor have been proven, the Council may impose one or more of these sanctions :*
 - *advise, admonish or censure the doctor in writing;*
 - *censure the doctor in writing, and fine up to €5,000;*
 - *attach conditions to the retention of the name in the register;*
 - *transfer the registration to another division of the register;*
 - *suspend the registration for a specified period;*
 - *cancel the registration;*
 - *prohibit the doctor from applying for restoration to the register for a specified period.*
 - *The doctor, with legal representatives may attend the Medical Council meeting and make submissions about what type of sanction should be imposed.*

ICGP advice to the Trainee.

1. The ICGP strongly advises taking out the professional indemnity insurance policy for trainees.
2. In each training location, check there is a complaints procedure readily available to the patients to avoid a patient seeing the medical Council as the only avenue of obtaining recourse to justice.
3. If you receive a letter indicating that the medical Council have received a complaint about your performance, do inform one or more of the following: Programme Director of your Scheme; the nominated hospital teacher/trainer who is/was in place at the time of the incident; the National Director of Training. If you do not inform your trainer/Programme Director/ICGP about a complaint, there is no other method by which these individuals can receive this information, they will not be notified by the Medical Council.
4. It is the policy of your GP Training Scheme to support a trainee who is the subject of a complaint to the Medical Council on grounds of professional conduct, where that conduct is as a result of an educational need.
5. Bear in mind that the vast majority of complaints do not progress beyond the Preliminary Proceeding Committee.
6. The college has no role in cases of serious criminal conviction, where there are breaches of registration conditions or breaches of undertakings given to the council. The college has no role to support disreputable/dishonourable behaviour, e.g. fraud or assault.

ICGP Advice to the training Scheme

1. GP trainees are not immune, by virtue of being in training, to a complaint by any member of the public, or by another healthcare worker, to the Medical Council.
2. A complaint, even if trivial and/or vexatious will still always be brought before the Preliminary Proceeding Committee of the Medical Council and the trainee notified. The stress and anxiety that such an incident may cause a doctor in training must be acknowledged. At some point in the induction of trainees by the training scheme, the encouragement by the scheme to immediately notify and seek support, should a doctor in training receive notification of a complaint should be encouraged.
3. For the doctor in training support should be extended even where the complaint arises from an incident prior to commencement of GP training, so long as the complaint has been notified during their training.
4. The trainee has a right to confidentiality with regard to such a notification. Whether it is the trainer, hospital teacher or Programme Director, or more than one person who is notified, the information with regard to the Medical Councils attention should not be shared with anyone else without the consent of the affected doctor.
5. Local access to occupational health and psychological services should be facilitated for the doctor in training who is subject to a complaint to the Medical Council. The health committee of the Medical Council is a supportive positive experience for the majority of doctors with a health issue.

6. Advice may at all times be sought from within college, from the National Director, and from college representatives to the Medical Council. Should this advice be sought, the identity of the doctor who is subject to a complaint must remain confidential, unless otherwise stipulated by the doctor.
7. Should a complaint to the Medical Council identify a weakness in the structures or systems of training, the scheme is requested to discuss this with the National Director so that future such structures can be strengthened.
8. Should a doctor in training be requested to appear before a Fitness to Practice enquiry, consideration should be given that the relevant clinical supervisor at the time of the incident in question should accompany the doctor in training to this inquiry.

ICGP Policy with regard to future development of handling complaints on doctors in training by the medical Council.

The College, through the Forum of PostGraduate Training bodies, should engage with the Medical Council to develop a memorandum of Understanding regarding complaints against all doctors on the Training register. This should include the following understandings:

- A future policy should consider that while progressing to the Preliminary Proceedings Committee, (which is legally necessary) all complaints about communication and/or poor clinical performance in a doctor *in training* should also be notified to the training body.
- Processes should focus on remediation rather than punishment of the doctor, while protecting the public.

HEALTH DISABILITY

- In general, doctors with health disabilities should be supported via referral to the health in practice programme, the practitioner health (formerly the sick doctor scheme) the HSE occupational health departments and/ or their own gp.s.
- Referral, including self-referral, to the health committee of the Medical Council may be considered in certain cases.
- The Medical Council health Committee exists to assist compliant doctors with health disabilities to keep their registration during treatment and rehabilitation. It also functions as a support for treating doctors in difficult cases.
- Training schemes should have clear processes with regard to doctors who have with health problems. Such doctors should only be reported to the Medical Council if non-compliant with agreed treatment approaches.
- Training schemes and the ICGP need to have structures that allow for rehabilitation, including part time training or additional time to achieve qualification.

- Doctors should have career advice available regarding suitability to continue in training or to pursue a career in general practice.
- Post graduate training forum should develop processes, which allow for career pathway change for health reasons.

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Final