



## Public Consultation Feedback form

### Draft Rules for the Fitness to Practise Committee and Subcommittees of the Fitness to Practise Committee

Please complete this questionnaire and return to [john.sidebottom@mcirl.ie](mailto:john.sidebottom@mcirl.ie) by noon Wednesday 1<sup>st</sup> July 2020. The feedback provided will be collated with other submissions and will be presented to the Medical Council for review in finalising the rules as per Section 11 of the Medical Practitioners Act 2007.

Please refer to the document entitled Public Consultation - Draft Section 11 Rules for the Fitness to Practise Committee and Subcommittees of the Fitness to Practise Committee – 12<sup>th</sup> June 2020 which is available on the Medical Council Website at [www.medicalcouncil.ie](http://www.medicalcouncil.ie).

While the data may be identifiable, you have several rights under data protection legislation, including the right to access the data you have provided; the right to rectification the data you provide; the right to be erased from the dataset; the right to restrict or object to the processing of the data you have provided and to obtain and reuse your personal data (data portability). If you would like further information on your rights as a data subject, please contact our Data Protection Officer at [dp@mcirl.ie](mailto:dp@mcirl.ie).

Participation in this consultation is entirely voluntary.

Please note that all submissions may be subject to Freedom of Information requests.

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**Do you have any initial comments to make on the draft rules as presented?**

The Draft Rules for the Fitness to Practise Committees and Subcommittees of the Fitness to Practise Committee transposes the current Medical Council Fitness to Practice Procedures into rules in accordance with the Medical Practitioners Act 2007. The IMO has identified a number of deviations from the procedures <https://www.medicalcouncil.ie/public-information/making-a-complaint-/ftpc-procedures-feb-2012.pdf> as follows:

**Paragraph 2 – pg 3**

The fitness to Practice Committee will now sit in Subcommittees, instead of panels, however the composition will be the same - 3 members.

*In each Subcommittee, at least one member must be a Council member. The Subcommittee must be composed of one medical practitioner, two persons who are not medical practitioners and the chairperson of the Subcommittee shall be a member of the Medical Council.*

*Under the amended rules the Chairperson of the Committee, or such other member or members of the Committee as may be designated by the Chairperson, may establish Subcommittees of the Committee.*

**IMO Comment: The IMO sees no reason for objection.**

**B. Call Over - Paragraph 6 – pg 4**

**b. Call over applications**

The following paragraph has been removed in the amended draft rules:

*Prior to call over:*

*Usually the Committee requests that the CEO furnishes to the medical practitioner notice of the allegations and the particulars of the evidence at least 4 weeks in advance of the hearing date(s).*

*i) Fixing of dates*

*The CEO generally applies to the Committee to fix hearing dates for Inquiries at the call over. The Committee requests that, where possible, hearing dates suitable to both sides are identified in advance of the call over.*

**IMO Comment: The IMO has concerns over the removal of this paragraph. It is essential that a registered medical practitioner is given sufficient notice of the allegations and particulars if the evidence in advance of the hearing date. There is no other mechanism in place for Doctor to know what misdemeanor they are allegedly guilty of - this is inherently unjust.**



There may also be genuine reasons why a medical practitioner may be unable to attend a hearing on a specific date. For example, they may be ill, out of the country or may need time to establish the facts.

#### **M. Recommendations as to Sanction - Pg 9**

The following paragraph has been removed in the amended draft rules:

##### *14. Publication*

*The Committee will usually publish on the website, as soon as is practicable, its findings (but not reasons) in respect of each of the allegations but may decide not to do so in respect of hearings held in private. The Committee will, in advance, announce its findings to the medical practitioner and the CEO in accordance with procedures set out above.*

**IMO Comment: The report of the Committee will be furnished to the registered medical practitioner and the CEO for consideration in advance of the meeting of the Medical Council. The IMO welcomes that the findings in relation to allegations are not to be published in advance of the final decision of the Medical Council.**

#### **S. Application of these Rules - Paragraph 44 – Pg 10**

A new paragraph is introduced whereby

*The Chairperson of the Committee or the chairperson of the Subcommittee, as the case may be, may depart or deviate from any provision of these rules where it is considered necessary or appropriate to do so in the interests of efficiency and/or fair procedures.*

**IMO Comments: This new paragraph would seem to give extraordinary powers to the Chairperson of the Committee or Subcommittee to deviate from the procedures in the interests of efficiency. The doctor needs to know in advance all " charges " made against him/ her so that they can prepare appropriate material in order to defend him / her self in a court of law this would be deemed appropriate**

**Is there any topic or issue you would like to see included or edited in the draft rules?**

#### **B. Call Over - Paragraph 6 – pg 5**

##### **e. Privacy Applications**

*i. The Committee will consider applications from witnesses or registered medical practitioners who apply for some or all of an Inquiry to be held otherwise than in public. The Committee will consider, pursuant to the Act, whether it is satisfied that it would be appropriate in the circumstances to hold the hearing or part of the hearing otherwise than*



*in public, as provided in the Act. Such applications will be notified to the registered medical practitioner or CEO as the case may be, in advance of the call over.*

**Medical Council complaints process can be extremely stressful for individual doctors with severe consequences on their health, reputation and livelihood and can lead doctors to practice defensively. The IMO is calling for an amendment to the Medical Practitioners Act 2007 to ensure that**

- a. Investigation processes protect the identity of doctor during the investigation pending any adverse finding upon which the identity and sanction will be made public.**
- b. Fitness to Practice hearings being held “in camera”**

**Medical practitioners before they are called over for Fitness to Practice Procedures must be notified that they have the option to apply to have their hearing held “in camera” .**

**Do you have any other feedback or comments to make?**

**A large number of complaints are unnecessarily brought to the Medical Council with just one in ten complaints received forwarded to the Fitness to Practice Committee for inquiry.**

**The current system is in need of urgent reform to encourage legitimate complaints and discourage frivolous matters which are costly and time wasting for both the Medical Council and the medical professional against whom the complaint is made.**

**The IMO is also calling for Introduction of a tiered complaints process so that complaints are categorised according to the severity of the complaint and such categorisation determines the process of investigation.**