



## **PROFESSIONAL CODE OF CONDUCT**

### **RULES OF CONDUCT AS AGREED BY COUNCIL**

#### **Introduction**

This brief has been prepared for the information of members of the Register. It determines in one document the objectives of the Registration Council, the professional standards expected of Registrants and Rules of Conduct.

#### **Definitions**

In these Regulations words and expressions have the meanings respectively ascribed to them in the following schedule unless the context clearly indicates a different or modified meaning:

- a) “the Council” The Voluntary Registration Council;
- b) “the Chair” the Chairperson of the Council;
- c) “the Registrar” of the Council, or other person appointed or nominated by the Council in an executive capacity for any purpose referred to in these Regulations;
- d) “the Committee” the Fitness to Practice Committee as constituted by the Council and acting within its terms of reference and its delegated powers;
- e) “the Register” the Register maintained by the Council;
- f) “Registrant” a person whose name is included on the Register;
- g) “Complainant” a person who lodges a complaint alleging professional misconduct by a Registrant;
- h) “Respondent” a Registrant against whom a complaint alleging professional misconduct has been lodged;
- i) “days” days, including Saturdays, Sundays and Bank or National Holidays.

#### **Objectives of the Registration Council**

- To encourage and ensure that standards of professional practice and conduct are maintained by the establishment, upholding and promotion of the standards of qualification, competence and conduct of practising Registrants.
- To act in an advisory and consultative capacity in matters relating to the objectives specified above.

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For the purpose of carrying out those objectives the Council has the following Rules of Conduct:

### **Standards**

- Every Registrant shall at all time so order his or her conduct as to uphold the dignity and reputation of his or her profession and to safeguard the public interest in matters of health and safety.
- Every Registrant shall at all times exercise his or her professional skill and judgement to the best of his or her ability.
- Every Registrant shall at all times discharge his or her professional duties and responsibilities with integrity.
- Every Registrant shall at all time act with fairness and integrity towards all persons with whom his or her work is connected and towards other members of the profession.

### **Rules of Conduct**

These rules of conduct have been made and agreed by Council in the pursuance of the Objectives and Standards.

A code of professional conduct designed to cover all eventualities must necessarily be written in general terms and expressing broad ethical principles. Almost every case of doubt as to the proper course of action required to conform to the case of professional conduct arises from a conflict between a registrant's personal interest and his or her duty to others. Rules issued by the Council to interpret the code indicate the manner in which registrants are required to conduct themselves in a number of situations that are frequently encountered. In other situations, registrants are required to order their conduct in accordance with the principle that, in any conflict between a registrant's personal interest and fair and honest dealing with other registrants of the community, his or her duty to the community must prevail.

1. A Registrant shall exercise his or her professional skill and judgement to the best of his or her ability and discharge his or her duties with integrity and with full regard to the public interest.
2. A Registrant shall not be party to any act or default likely to bring discredit on the Register or any other health care professional.
3. A Registrant shall not be engaged in any activity inconsistent with the responsibilities attached to his or her own appointment or position within his or her health care profession.
4. A Registrant shall at all times ensure that his or her work and the results of such work does not constitute any avoidable danger to any other person.
5. A Registrant shall take all reasonable steps to maintain and develop his or her professional competence and shall encourage persons working under his or her supervision to do so.
6. A Registrant shall not undertake any responsibility which he or she does not believe himself or herself to be competent to discharge.
7. A Registrant shall accept personal responsibility for all work done by himself or herself or under his or her supervision or direction and shall take all reasonable steps to ensure that persons working under his or her authority are competent to carry out the tasks assigned to them.

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8. A Registrant called upon to give an opinion in a professional capacity shall, to the best of his or her ability, give an opinion that is objective and reliable.
9. A Registrant whose professional advice is not accepted shall take all reasonable steps to ensure that the person overruling or neglecting this advice is made aware of the potential consequence and any danger which the Registrant believes may result from such overruling or neglect.
10. A Registrant shall not make any public statement without ensuring that his or her qualification to make such a statement, and any association he or she may have with any party which may benefit from the statement, are made known to the person or persons to whom it is directed.
11. A Registrant shall not in self-laudatory language or any manner derogatory to the dignity of the profession, advertise or write articles for publication, nor shall he or she authorise any such advertisement or article to be written or published by any other person.
12. A Registrant shall not recklessly or maliciously injure or attempt to injure, whether directly or indirectly, the professional reputation and prospects of employment of any other member.
13. A Registrant shall inform in writing his or her employer of any conflict between his or her personal interest and faithful service to his or her employer.
14. A Registrant shall not disclose any information concerning the business of his or her employer or of any past employer.
15. A Registrant shall at all times maintain and respect the confidentiality of patients, clients and other users of the service.
16. A Registrant shall not accept any remuneration in connection with professional services rendered to his or her employer other than from his or her employer or with his or her employer's consent; nor shall he or she receive directly or indirectly any royalty, gratuity or commission for the purpose of work in respect of which he or she is employed unless or until such royalty, gratuity or commission has been authorised in writing by his or her employer.
17. A Registrant shall not improperly solicit work as an independent advisor or consultant, either directly or by an agent, nor shall he or she improperly pay any person, by commission or otherwise, for the introduction of such work.
18. The rules of professional conduct do not prevent a Registrant from being named in the press, writing for the press, radio or television, or taking part in radio or television programmes, films or other public appearances; he or she may be featured in articles and scripts about his or her own work, and is permitted to submit articles and scripts about his or her own work to the press, radio or television; he or she may also submit articles or scripts on topics of general interest
19. A Registrant shall at all times ensure that any article for the press, radio or television presents the role and work of their profession in a dignified, sympathetic and professional manner.
20. A Registrant shall ensure at all times that the requirements detailed in all appropriate Acts of Parliament, law, Bye-laws and all subsequent statutory requirements are followed and upheld to the best of his or her ability.

### **Industrial Action**

- A registrant who is also a member of a trade union should honour the obligations which are voluntarily assumed by joining such. If, at any time, obligations to the union should be in conflict with those deriving from membership of the register, then the membership of the union may be incompatible with membership of the Register.

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- A Registrant whose union requires participation in “industrial action” will not be regarded as infringing the Register’s objectives and Rules of Conduct if he or she acts in conformity with the following paragraphs:

Industrial action by employees may take the following forms:

- Complete withdrawal of services, i.e. strike action
- Partial withdrawal of services, e.g. “go slow”, “withdrawal of co-operation”.

A Registrant should not withdraw services:

- Before all normal procedures of negotiation had failed to produce an agreed solution to a dispute **or**
- In breach of rules or conditions of employment which he or she has accepted by prior arrangement or contract **or**
- In circumstances which would expose any person to the risk of death, injury or ill health.

Council requires every Registrant to exercise professional skill and judgement to the best of his or her ability and discharge his or her professional responsibilities with integrity; and every Registrant will act with fairness and integrity towards all persons with whom his or her work is connected. Partial withdrawal of services amounting to deliberately inefficient or obstructive working is therefore improper.

It is the duty of every Registrant, even outside normal areas of responsibility, if, during the course of industrial action, he or she believes this to be necessary to avoid exposing any person to the risk undue distress or risk of death, injury or ill health or to avoid exposing natural resources, or the environment, or valuable products of skill and industry to the risk of serious damage or destruction.

### **Fitness to Practice Procedures**

The Council will order a full investigation of a complaint or professional misconduct arising from certain judicial proceedings, other comparable enquiries or allegations referred to the council, unless the circumstances are exceptional. Thus, an allegation that a Registrant has been:

- Found guilty in a Court of Law of any criminal offence involving their professional duty and responsibility , fraud or dishonesty **or**
- Committed to prison for any other criminal offence **or**
- Found to have been negligent in a professional capacity, either in a Court of Law or in the findings of a Parliamentary Inquiry, Royal Commission or comparable body **or**
- Contravened the Council’s Code of Conduct

will normally be referred to the Fitness to Practice Committee.

The Council reserves the right to disclose the cancellation of a registration to any person or organisation with an interest in the matter and/or to release an announcement for publication if it is concluded that such an action is essential in order to safeguard the credibility and integrity of the Voluntary Register.

The general question of defining or interpreting the standards of professional conduct appropriate to the Registrants modality and to particular issues that may need clarification will be kept under review. Revision of statements of principle or guidelines made in the light of changing circumstances will be published or circulated to Registrants.

## **REGULATIONS GOVERNING FITNESS TO PRACTICE PROCEDURE**

### **Requirements relating to a complaint**

1. A complaint against a Registrant may be lodged by another Registrant or by any other person, whether acting in a personal capacity or as a representative of any organisation. The complaint must be in writing and the name and address of the complainant must be appended. It must set out the essential details of the complaint and alleged professional misconduct on which the complaint is founded and, if practicable, be accompanied by such documentary evidence as may assist a preliminary inquiry. If the Complainant is acting as the representative of an organisation the name and address of that organisation and his status therein should be stated. The complaint should be in an envelope addressed to the Registrar, The Voluntary Registration Council and marked "Confidential".

### **Preliminary inquiry**

1. On receipt of a complaint in the required form it shall be the duty of the Registrar:
    - a) to send a written acknowledgement, enclosing a copy of these Regulations and intimating that the complaint will be presented to the Council as soon as possible;
    - b) to seek an assurance that the Complainant will co-operate fully and attend a meeting of the Fitness to Practice Committee if a full investigation is ordered;
    - c) to notify the Respondent, by recorded delivery post and within fourteen days, that a complaint against him or her has been received and inform him or her of:
      - i) the name of Complainant and the nature and essential details of the complaint
      - ii) the fact the complaint will go before the Council for preliminary inquiry and the date of the Council meeting at which it will be presented.
      - iii) his or her right to submit to the Registrar a written statement in response to the complaint, which should be delivered at least fourteen days before the Council meeting.
      - iv) the fact that it is not customary for a Complainant or Respondent to be present at a preliminary inquiry;
      - v) the powers of the Council after carrying out a preliminary inquiry, which are:
        - a) to decide that there is no case to answer
- or**
- b) to refer the complaint, without prejudice, to the Fitness to Practice Committee for full investigation;
  - c) the fact that the Council meeting may be postponed or adjourned should this prove to be necessary.

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2. The Council (with a quorum of six members) but otherwise adhering to normal practice with regard to the conduct of its business, will carry out a preliminary inquiry on the basis of the Complainant's statement and that of the Respondent (if submitted). On this initial evidence the Council will consider:
  - a) whether or not the substance of the complaint appears to come within the Council's interpretation of professional misconduct and, if so
  - b) whether the Respondent's response should be accepted, without further investigation, as a full and satisfactory answer to the complaint, or should be referred to the Fitness to Practice Committee.
  - c) whether to issue a formal reprimand and a warning as to future conduct where:
    - i) the registrant has admitted the facts set out in the Notice of Complaint **and**
    - ii) the registrant has admitted that such facts constitute misconduct **and**
    - iii) the Council determines that the facts constitute misconduct on the part of the registrant **and**
    - iv) the Council determine that a reprimand and a warning as to future conduct is appropriate **and**
    - v) the registrant accepts that such a reprimand is appropriate.
3. If the Council resolves, by a simple majority of those present and voting, that there is no case to answer, the Registrar shall notify the Complainant and Respondent of this decision.
4. If the Council resolves, by a simple majority of those present and voting, that a full investigation shall be ordered the matter shall be referred to the Fitness to Practice Committee, and copies of the statement(s) before the Council shall be sent forthwith to the Chairman of the Committee. The Registrar shall give written notification of the decision to the Complainant and the Respondent within seven days of the Council meeting.
5. If an allegation is of a very serious nature and an investigation is ordered, the Council may suspend the registration of the Respondent for a period of no longer than is required to carry out an investigation as promptly and speedily as possible, but will not do so unless suspension is considered essential in order to safeguard the interests of the public and maintain the credibility of the Voluntary Register and of other Registrants.
6. A resolution to this effect shall be passed if two-thirds of those voting are in favour and also constitute an overall majority of the Members of Council, whether present or not. The Registrar shall notify the Respondent in writing immediately.
7. No record of the Council's deliberations in the course of a preliminary inquiry shall be kept, except for a Minute recording consideration of the complaint and the resolution(s) passed.
8. When an investigation has been ordered by the Council, the Registrar shall forthwith instruct solicitors to discover if any matter referred to the complaint is sub judice (i.e. the subject of an impending court action or formal inquiry elsewhere, or one that is already in progress). If so, the Registrar shall inform members of the Council and all parties to the investigation and it must be deferred until the outcome is known.

### **Full investigation**

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9. The Fitness to Practice Committee shall comprise; five non-members appointed by Council with due regard for speciality representation and no more than three co-opted members at any one sitting of the Committee.
10. All five appointed members shall be Registrants and shall hold, or have held, a senior level position in Health Care, and shall not have been retired for more than 1 year. Co-opted members shall be Registrants and may be invited by the Committee to serve either for a specified period or for the duration of an investigation.
11. Notwithstanding the provisions of Regulation 9, if there is a possibility of considerable public concern may arise in the course of the investigation the Committee may co-opt not more than two additional members who are not Registrants to represent the public interest.
12. The Chairman of the Committee shall be appointed by the Council from among the five appointed members and shall have full voting rights and in the case of an equality of votes shall be entitled to a second or casting vote.
13. The Registrar of the Council may be the Secretary of the Committee, but all act in an executive capacity and shall have no vote.
14. Subject to the provisions of regulations 9-13 inclusive, the Constitution and Terms of Reference of the Committee, and the mode of appointment and tenure of its members shall be prescribed by the Council and may be revised from time to time provided that:
  - a) a note of the arrangement approved by the Council in up-to-date forms, shall be attached to these Regulations and shall give the names of the Chairman and Registrar and remaining appointed members;
  - b) the quorum for an investigation shall be the Chairman and not fewer than four members (whether appointed or co-opted);
  - c) a member of the Committee who, in another capacity, is or has been involved in or closely concerned with the events leading to an investigation shall inform the Chairman and take no part therein.
15. The powers of the Committee shall be;
  - a) to conduct a searching and impartial investigation and for this purpose to seek such legal or other advice as may be considered necessary, and if thought fit to arrange for a hearing;
  - b) to invite any Registrant or other person to provide written evidence or attend any meeting or hearing as a witness or as an adviser;
  - c) to invite the Complainant and Respondent to be present at any meeting or a hearing;
  - d) to appoint a Solicitor to prepare and present evidence of a complaint to the committee, where necessary;
  - e) to take any other action consistent with these Regulations that is considered necessary or desirable in order to assist its deliberations and arrive at a firm conclusion:
  - f) to resolve at the conclusion of an investigation either:
    - i) that the complaint shall be dismissed, and if so, to direct that all records and documents relating there to be destroyed
    - ii) that the Respondent has been found guilty of professional misconduct

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- g) to call for personal record of the Respondent found guilty of professional misconduct, before deciding what Fitness to Practice action is appropriate and recommend to the Council that
    - i) the Respondent be admonished or the Respondent be reprimanded and if thought fit, to call for a written undertaking as to his or her future conduct, or that the name of the Respondent shall be moved from the Register.
    - ii) a note recording the action to be taken shall be entered in the personal record of the Respondent
16. If a hearing is arranged, a Complainant and Respondent shall each have the same rights:
- a) to appear before the Committee on written request, and to address the Committee;
  - b) to submit documentary evidence on advance of a hearing;
  - c) to cross-examine witnesses (in the case of the respondent) called against him or her and to call witnesses on his or her own behalf;
  - d) to be accompanied by one or more persons to give him or her such advice and assistance as he or she may require;
  - e) to conduct his or her case, either in person or through a previously nominated representative
17. As soon as an investigation can properly be set in motion (see Regulation 8) the Secretary of the Committee shall:
- a) notify the Complainant and Respondent and inform them that further details will be given as soon as possible
  - b) consult the Council's solicitors and other advisers, if necessary
  - c) Prepare a document and relevant papers for submission to the Committee as a basis for the investigation
  - d) Consult the Chairman and decide with him or her if a hearing is necessary and, if so, whether there should also be a preparatory meeting of the Committee, either immediately before the hearing or at an earlier date
  - e) Proceed with all other administrative arrangements for carrying out this investigation
18. Copies of the document to be submitted to the Committee as a basis for the investigation shall be sent to the Complainant and the Respondent, together with further copies of these Regulations. They shall each be invited to send to the Secretary of the Committee, by a specified date, their comments on the document and any further statement of documentary evidence that they wish to bring to the attention of the Committee.

If a hearing is to take place they shall be given at least twenty-one days notice of the date, time and venue, and shall be:

- a) Reminded of their rights under Regulation 16
- b) Invited to appear in person and advised that if either or both do not appear the hearing will proceed in his/her or their absence;

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- c) Informed that if they intend to appear they must notify the Secretary of the Committee at least fourteen days before the hearing and give the name and address of each person who will accompany them, and also state if that person or persons are to act as adviser, or witness, or representative;
19. A hearing shall be conducted with due regard to the principles of natural justice and, as far as possible, in accordance with the following outline of procedure:
- a) the Chairman of the Committee shall preside, and shall give rulings on the admission of evidence and on any questions of principle or procedure of points of order that may arise. The Chairman of the Committee shall have power to adjourn the hearing and, after consultation with those present, to fix a date, time and venue for its resumption. The Chairman shall open the proceedings by describing the procedure to be followed, which shall comply with Procedural Rules approved by Council as far as circumstances permit (see Appendix 2);
  - b) at the conclusion of the hearing all save the Chairman and members of the Committee (and the Committee's advisers, if any) shall withdraw for a period that the Chairman shall determine so that the Committee may deliberate and, if possible, reach a decision.
20. The Committee shall submit its report of the hearing and recommendation, in writing to the Council as soon as practicable after the investigation and a decision thereon (which may be to moderate the recommended Fitness to Practice action) shall rest solely with the Council after considering the Committee's report.
21. Within twenty-one days of the conclusion of the hearing the Secretary of the Committee shall confirm the findings of the Council in a letter to the Respondent and, if the name of the Respondent is not to be removed from the Register, in a letter to the Complainant.
22. If the Council has resolved that the Respondent's name shall be removed from the Register, he or she will be reminded of his or her right to appear before Council and to make a statement in mitigation, or provide a written statement to be read on his or her behalf.
23. A resolution to remove a Respondent's name from the Register shall be passed if two-thirds of those voting are in favour and also constitute an overall majority of the Members of the Council, whether present or not.
24. A resolution that is confirmed or moderated after reconsideration in response to the Respondent's statement in mitigation shall be implemented within.
25. It shall be the duty of the Secretary of the Committee to send written notification of the Council's decision to the Respondent' and the Complainant. If the name of the Registrant is to be removed from the Register he or she shall be called upon to return his or her certificate of registration.

## **APPENDIX 1**

### **FITNESS TO PRACTICE PROCEDURE**

#### **Fitness to Practice Committee - Terms of Reference**

The composition and duties of the Committee are set out in detail in paragraphs 9-20 of the Regulation.

The terms of reference are:

“To conduct a full investigation of complaint against any Registrant when requested to do so by the Council and, in so doing, to comply with the Regulations governing Fitness to Practice procedure and such further directions or guiding principles as may be approved by the Council from time to time, and with any specific instructions that may be given in respect of particular investigation. To submit reports of all such investigations to the Council in accordance with paragraph 20 of the Regulations”

Council, when required shall constitute the Committee in accordance with paragraph 9 of the Regulations.

## **APPENDIX 2**

### **FITNESS TO PRACTICE PROCEDURE**

#### **Procedural Rules for Hearings**

These rules are supplementary to the provision of paragraph 18 of the Regulations.

- 1 The Complainant shall present his or her complaint and call upon his or her witnesses (if any) to give evidence and question them.
- 2 The Respondent, the Chairman and any other member of the Fitness to Practice Committee shall be entitled to question any witness called by the Complainant.
- 3 The Complainant shall re-examine his or her witnesses or any matter referred to during each questioning.
- 4 The Respondent shall present his or her response to the complainant, and call upon his or her witnesses (if any) to give evidence and question them.
- 5 The Complainant, the Chairman and any member of the Fitness to Practice Committee shall be entitled to question any witnesses called by the Respondent.
- 6 The Respondent may re-examine his or her witnesses on any matter referred to during such questioning.
- 7 Nothing in the foregoing rules shall prevent the Chairman, or any member of the Fitness to Practice Committee from inviting the Complainant or the Respondent, or the representative of either party, to elucidate or amplify any statement he or she may have made, or from asking him or her such questions as may be necessary to ascertain whether or not he or she proposes to call any evidence in respect of any part of his or her presentation or alternatively, whether he or she is in fact claiming that the matters are within his or her knowledge, in which case he or she will be subject to examination as a witness under paragraph 2 of paragraph 5 above.
- 8 When all the evidence has been heard, the Complainant shall be entitled to address the Chairman and members of the Fitness to Practice Committee, and the Respondent shall be entitled to give an address in reply.
- 9 The Chairman at his or her sole discretion, may suspend that hearing at any time in order to consult privately with members of the Fitness to Practice Committee or his or her advisers, or at the formal request of the Complainant or the Respondent.
- 10 Subject to the provision of Regulation 16, the Complainant and the Respondent shall be entitled to conduct his or her case in person, or through a previously named representative and these rules shall be constructed accordingly.