



Fitness to Teach

Information for Employers



About this booklet

This booklet tells you when to inform the Teaching Council of a complaint about a registered teacher. We have included a glossary to help you understand important terms.

About the Teaching Council

The Teaching Council is the professional standards body for teaching that promotes and regulates the teaching profession. It acts in the interests of the public good while upholding and enhancing the reputation of the teaching profession. One of the functions of the Teaching Council is to investigate complaints and, where appropriate, hold inquiries about registered teachers.

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1 General information

Why does the Teaching Council look into complaints about teachers?

As the regulator for the teaching profession, we are legally required to look into complaints about teachers registered with us. This is set out in Part 5 of the Teaching Council Act 2001, as amended. You can view or download the Teaching Council Act 2001, as amended, from www.teachingcouncil.ie.

Who can complain?

Any person, including members of the public, employers and other teachers may make a complaint about a registered teacher. In addition, the Teaching Council can itself make a complaint about a registered teacher.

Does a complaint have to be raised with the school before the Teaching Council can consider it?

We cannot generally look into a complaint unless the school's disciplinary procedures (established under section 24 of the Education Act, 1998) have been exhausted (or come to an end)¹. The exception to this is where there are good and sufficient reasons. Good and sufficient reasons may include where children or vulnerable persons are, or may be, at risk of harm or where the conduct is of such a nature as would bring the profession into disrepute.

Our Investigating Committee will decide whether good and sufficient reasons exist to start an investigation straight away.

At present there are no grievance procedures prescribed by the Minister under section 28 of the Education Act, 1998. However, if and when section 28 procedures are established, we will not be able to look into a complaint until those grievance procedures have been exhausted (or come to an end), unless there are good and sufficient reasons.

1 Section 28 of the Education Act, 1998, requires the Minister for Education to establish grievance and other procedures for students and parents. It is referred to in the Teaching Council's fitness to teach legislation. However, this section has not been brought into operation by the Minister to date and is therefore not referred to in this information booklet.

Can the complaint relate to conduct outside the course of the registered teacher's profession?

Yes, we can consider complaints about matters that relate to conduct outside the course of the registered teacher's profession on grounds such as convictions for certain offences, and where the conduct is of such a serious nature as would bring the profession into disrepute.

Can the Teaching Council look into a complaint about something that happened outside of the school, while in the course of the teacher's profession?

Yes. A complaint against a registered teacher can relate to any school-related professional activity, or any activity or role undertaken in their capacity as a registered teacher.

Can the Teaching Council look into a complaint about something that happened outside Ireland?

Yes. We can consider complaints about certain matters that happened outside Ireland on grounds including professional misconduct, poor professional performance and convictions for certain offences.

What types of complaints does the Teaching Council look into?

We can only consider complaints in relation to registered teachers. We can look into complaints about:

- > professional misconduct;
- > poor professional performance;
- > engaging in conduct contrary to the Teaching Council Code of Professional Conduct;
- > being medically unfit to teach;
- > a conviction for certain offences;
- > failing to comply with, or contravening a provision of the Teaching Council Acts 2001, the Education Act, 1998, the Education Welfare Act, 2000, the Education and Training Boards Act, 2013, and any regulations, rules or orders made under those Acts;
- > failing to comply with an undertaking or to take any action specified in a consent given to a panel of the Council's Disciplinary Committee at a previous inquiry; and
- > erroneous registration due to a false or fraudulent declaration or misrepresentation.

In addition, the Teaching Council may make a complaint to the Investigating Committee about information contained in a vetting disclosure received by the Council on behalf of school employers or potential employers.

We can generally only consider complaints where the matters complained about took place on or after **25 July 2016**. Where the matters complained about happened before 25 July 2016, we can only look into the complaint in certain circumstances. These circumstances include where a teacher was convicted of a particular criminal offence, or where a teacher was not convicted but the conduct complained about would have constituted a criminal offence at the time that it occurred and is of such a nature as to reasonably give rise to a concern that the teacher may harm or contribute to harm or potential harm, to any child or vulnerable person.

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Informing the Teaching Council

Can the employer make a complaint?

Yes. Any person including an employer may make a complaint to the Teaching Council in accordance with section 42(1) of the Act. If you have concerns about a teacher's suitability to teach, you should tell us. You can make a complaint to us at any time if you are concerned about a teacher, even if the teacher remains in employment.

However, as set out in the General Information in part 1 of this booklet, we cannot generally look into a complaint unless the school's disciplinary procedures (established under section 24 of the Education Act, 1998) have been exhausted (or come to an end). The exception to this is where there are good and sufficient reasons.

Good and sufficient reasons may include for example, where the conduct complained of relates to harm to a child, or where the conduct is of such a nature as would bring the profession into disrepute. Our Investigating Committee will decide whether good and sufficient reasons exist to start an investigation straight away.

What if there is a risk of harm to children or vulnerable persons?

If you are concerned that children or vulnerable persons are, or may be, at risk of harm or potential harm you should inform:

- > The school, where appropriate
- > TUSLA (the Child and Family Agency);
- > An Garda Síochána, where appropriate.

You may also wish to submit a complaint to the Teaching Council.

When must the employer provide information to the Teaching Council?

The Teaching Council (Information to be furnished by employer in case of dismissal or resignation of registered teacher) Regulations, 2023 (No. 230 of 2023) were commenced on 11 May 2023 ("the 2023 Regulations"). The 2023 Regulations introduce a legal obligation on employers to provide particular information to us, **as soon as practicable**, in circumstances where a registered teacher:

- (a) is dismissed by his or her employer, or
- (b) resigns and that resignation follows upon -
 - (i) the making of a complaint in relation to that teacher (other than a complaint made in relation to a teacher under section 42 of the Teaching Council Act 2001 (No. 8 of 2001), or
 - (ii) the invoking of procedures under section 24 of the Education Act 1998 (No. 51 of 1998), or such other procedures as may be invoked, in respect of the teacher.

The information that must be provided, in writing to the Council, is as follows:

- (a) the name and address of the employer;
 - (b) the name and, where known, address of the registered teacher concerned;
 - (c) the registration number of the registered teacher as entered in the Register of Teachers;
 - (d) Where the registered teacher has been dismissed -
 - (i) the reasons for the dismissal,
 - (ii) all documentation relating to the disciplinary process leading to the dismissal, and
 - (iii) all complaints made in relation to the teacher (including any complaint made in relation to the teacher under section 42 of the Teaching Council Act 2001) which contributed to, or resulted in, the dismissal, including copies of the following:
 - (I) letters of complaint;
 - (II) statements from witnesses;
 - (III) minutes or notes of meetings held with the teacher concerned;
 - (IV) statements and responses from the teacher concerned, and
 - (e) The circumstances surrounding the dismissal or resignation to include -
 - (i) whether those circumstances are the subject of any investigation (including the status of any such investigation) by any other persons, including An Garda Síochána or TUSLA (the Child and Family Agency), and
 - (ii) whether there are any civil proceedings contemplated or in being in relation to the circumstances surrounding the dismissal or resignation,
- and
- (f) where known, the current employment status, and place of employment of the registered teacher.

If you need to make a notification, please email professionalstandards@teachingcouncil.ie and inform us that you need to make a notification in accordance with the section 37 Regulations. We will then contact you and inform you of the method to be used to securely transfer the required information and documentation to us.

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The complaint process

What happens after I inform the Teaching Council about a complaint?

We can only consider a complaint if somebody makes a formal written, signed complaint. If you wish to make a formal complaint you can do so by downloading and completing our Complaint Form. This can be found in the Fitness to Teach section of our website, www.teachingcouncil.ie. If you are simply informing us of your concerns about a teacher and do not want to make a formal complaint, the Teaching Council itself may make a formal complaint to the Investigating Committee. It is likely that your input will be needed during the complaint and inquiry process.

We will notify the registered teacher and send him or her a copy of the complaint, all documents enclosed with it and any further information we receive about the complaint during the complaint process. This will include all the documents you give to us. The registered teacher will have an opportunity to respond to the complaint in writing to the Teaching Council.

Who will look into the complaint?

When we receive a complaint, it first goes to the Director of the Teaching Council and the relevant staff. The Director (or delegated staff) will review the complaint.

The Director can refuse the complaint if it is not in writing, signed, and accompanied by relevant documents and information. The Director can also refuse the complaint if the Director considers it to be frivolous, vexatious, made in bad faith or an abuse of process.

If the Director refuses the complaint, the person who made the complaint can appeal the Director's decision to the Investigating Committee.

If the Director refers the complaint to the Investigating Committee, this Committee will consider the complaint.

Are there any reasons why the Investigating Committee would not look into the complaint?

The Investigating Committee will not look into the complaint if:

- > the teacher is not registered with the Teaching Council;
- > the Investigating Committee believes that the complaint does not relate to the teacher's fitness to teach;
- > the school's disciplinary procedures (established under section 24 of the Education Act, 1998) have not been exhausted (or come to an end) unless there are good and sufficient reasons;
- > the matters complained about took place before 25 July 2016. In these cases, the Investigating Committee may still look into the complaint in certain circumstances as set out in part 1 of this booklet - General Information.

How does the Investigating Committee look into the complaint?

The Investigating Committee will send copies of the complaint and all documents it receives in relation to the complaint to the registered teacher. The Committee may ask the teacher to respond to the complaint in writing.

The Investigating Committee may ask the complainant (the person who made the complaint) to send in more information, or it might ask the teacher, school or any other relevant person for information.

The Investigating Committee may also seek expert advice or help.

If the complaint suggests that the teacher may be medically unfit to teach, the Investigating Committee might ask the teacher to undergo a medical assessment.

You can find more information about the school's role during the consideration of a complaint in part 6 of this booklet – Additional Information.

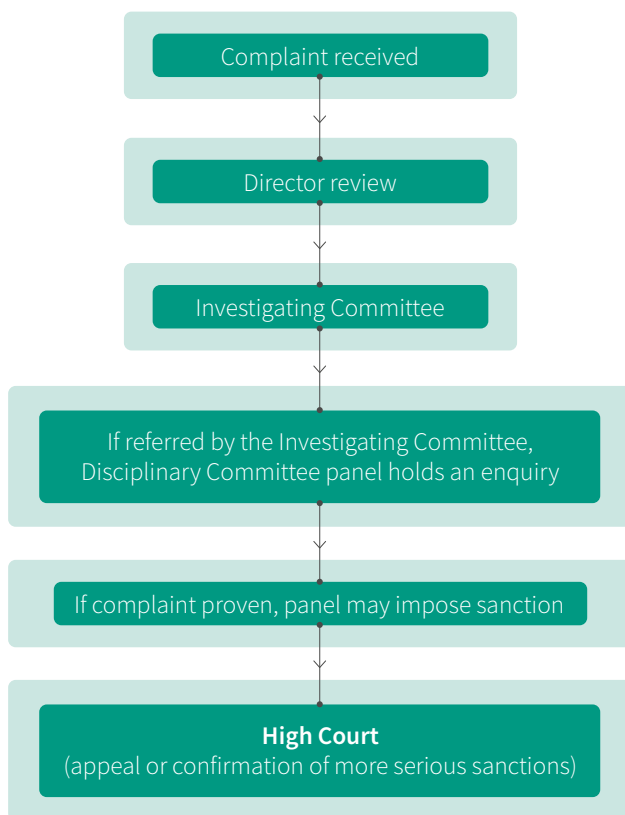
What happens after the Investigating Committee has looked into the complaint?

The Investigating Committee can either:

- > decide that further information is required in order to make a decision;
- > refer all or part of the complaint to the Disciplinary Committee for an inquiry, or
- > decide that no further action is required.

It is **not** possible to appeal the decision of the Investigating Committee. For a complaint to be referred by the Investigating Committee to the Disciplinary Committee, the complaint **must be of a serious nature**.

Please see below a chart of the complaint process



4 The inquiry process

What is an inquiry?

In most cases, an inquiry will take the form of an oral hearing before a panel of the Disciplinary Committee. It is similar to a hearing before a court or tribunal. Witnesses give evidence under oath.

However, the teacher the subject of the inquiry, can ask that the inquiry take place by an examination of the relevant documents and written submissions instead of as an oral hearing. In addition, the panel of the Disciplinary Committee can ask the teacher to consent to the inquiry taking place by an examination of the relevant documents and written submissions.

An inquiry by examination of relevant documents and written submissions takes place in private with no parties present.

The panel of the Disciplinary Committee will decide which approach is suitable. In most cases, an oral hearing will take place.

Hearings take place in public unless the teacher or a witness about whom personal matters may be disclosed requests the panel to hold the hearing or part of the hearing in private, and the panel is satisfied that it would be appropriate to do so. If a hearing is held in public, the panel may keep the identity of the persons involved confidential.

Where will the hearing take place?

Most hearings take place at the Teaching Council offices at Block A, Maynooth Business Campus, Maynooth, Co Kildare, W23 Y7X0. Occasionally, hearings may be held elsewhere or in a virtual online manner.

If an oral hearing takes place what is the role of the school or employer?

We may ask a representative of the school to give evidence as a witness. For more information in relation to the role of a witness and what to expect at a hearing, please see our Witness Information Booklet which you can find in the Fitness to Teacher section of our website, www.teachingcouncil.ie.

What could happen to the teacher?

The Panel of the Disciplinary Committee which holds the inquiry will decide whether the complaint is proven.

If the complaint is proven, the panel will have to decide whether to impose a sanction. The panel could decide to:

- a) advise, admonish or censure the teacher;
- b) place conditions on the teacher's registration;

- c) suspend the teacher from the register for a set time (up to two years);

(This would mean that the teacher would not be able to teach in a position funded by the Department of Education for the time that he or she is suspended from the register).

- d) remove the teacher from the register and not allow him or her to apply to be restored to the register for a set time.

(As an unregistered teacher, the teacher would then not be able to teach in a position funded by the Department of Education).

Can the teacher appeal the decision?

If the panel decides to impose one of the sanctions at b) to d) above, the teacher can appeal the decision to the High Court within 21 days of being notified of the decision. Appeals to the High Court are held in public.

If the teacher does not appeal, the Council must apply to the High Court for confirmation of the decision.

5 The teacher's registration

How is the teacher's registration affected by a complaint?

The teacher's registration generally does not change when we receive a complaint. It may change if the complaint is proven at an inquiry.

However, please note the following:

- a) If circumstances warrant, we can ask the High Court to suspend the teacher's registration under section 47 of the Act for a period of time. This would normally be until the Council has finished looking into the complaint.
- b) We can make this section 47 application if the Council **considers that it is in the public interest to do so**. These applications are rare and generally only happen where there is a real concern for the safety of the public. If we get a High Court order, we will notify you immediately. Depending on the terms of the order, the teacher may have to stop working completely or may have to stop working in a specific manner or in a specific role for a period of time. The High Court shall include in any order a direction as to whether the teacher shall continue to be paid while the order is in place.

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Additional information

What advice does the Teaching Council give a registered teacher when a complaint is received?

We advise the teacher to seek legal advice or the help of a colleague, union representative or other representative.

We cannot give a teacher advice in relation to the complaint and we will not reimburse the teacher for the cost of any representation. This is a matter for the teacher.

Is the school's input needed during the complaint and inquiry process?

We may ask the school to provide information or produce documents, which may include any disciplinary files retained. In addition, we may need a representative of the school to attend a hearing to give evidence.

If needed, the Council can issue a production summons to compel the production of documents and a witness summons to compel a representative of the school to attend the hearing to give evidence.

Will I be kept informed about a complaint?

We will tell you about a complaint as soon as possible if we believe there is a reasonable concern that children or vulnerable adults are, or may be, at risk of harm.

The Investigating Committee may look for information from you as part of the consideration and investigation of the complaint.

When the Investigating Committee has finished considering the complaint, a copy of the Investigating Committee's decision will be provided to you.

If the Investigating Committee decides to refer the complaint to the Disciplinary Committee for an inquiry, we will inform you of the outcome of the inquiry.

The teacher may decide to inform you of a complaint. That is a matter for the teacher.

Will the Teaching Council inform any other organisations about the complaint?

It may be necessary for the Teaching Council to pass information in relation to the complaint to bodies including Tusla (Child & Family Agency), An Garda Síochána and/or the National Vetting Bureau in accordance with the Teaching Council's obligations regarding the protection of children and vulnerable persons.

Where can I find out more about the Teaching Council's complaint process?

If you would like to know more about our complaint and inquiry process, please go to the Fitness to Teach section of our website, www.teachingcouncil.ie.

You can also contact us by emailing professionalstandards@teachingcouncil.ie or by calling (01) 6517900.

Privacy policy

The Council processes data in accordance with our Privacy Policy available on our website www.teachingcouncil.ie.

Glossary

You may not be familiar with all the terms in this booklet so we have explained them below.

Admonish – to reprimand firmly.

Censure – to express severe disapproval.

Code of Conduct – the Teaching Council’s Code of Professional Conduct for Teachers is available on the Teaching Council website. It contains guidance for teachers. On the date of publication of this booklet, the most recent version of the Code of Conduct is the version that was published in July 2016 and was updated on the commencement of Part 5 of the Teaching Council Acts, 2001.

Complainant – the person who makes a complaint about a registered teacher. This can include members of the public, employers and other teachers. In addition, the Teaching Council can make a complaint about a registered teacher.

Director – the Chief Executive Officer of the Teaching Council.

Disciplinary Committee – The committee in the Teaching Council from which the Panel who will hold the inquiry is formed.

Employer – the school Board of Management or the Chief Executive Officer of the relevant Education and Training Board which is employing the teacher in question.

Evidence – what a witness says at an inquiry hearing and documents or other records that are examined during the hearing.

Frivolous – of little importance or trivial.

Inquiry – either a hearing similar to a hearing before a court or tribunal or an examination of relevant documents and written submissions.

Investigating Committee – the committee in the Teaching Council that looks into a complaint and decides whether to refer it to the Disciplinary Committee for an inquiry.

Panel – the group of three to five people who will hold the inquiry and decide whether the case is proven or not.

Poor professional performance – a failure to meet the standards of competence (whether in knowledge, skill, or the application of knowledge and skill or both) that can reasonably be expected of teachers.

Professional misconduct – disgraceful or dishonourable conduct either in the course of the teacher's profession, or otherwise than in the course of the teacher's profession, if the conduct is of such a serious nature as would bring the profession of teaching into disrepute.

Sanction – the type of penalty that the Teaching Council can place on a teacher.

Vexatious – a complaint made by someone who may not be acting in good faith, without sufficient cause, and made to cause annoyance to the teacher complained about.

Vulnerable person – a person other than a child who:

- > is suffering from a disorder of the mind, whether as a result of mental illness or dementia; or
- > has an intellectual disability; or
- > is suffering from a physical impairment whether as a result of injury, illness or age; or
- > has a physical disability which is of such a nature or degree:
 - as to restrict the capacity of the person to guard himself or herself against harm by another person, or
 - that results in the person requiring assistance with the activities of daily living including dressing, eating, walking, washing and bathing.

An Chomhairle
Mhúinteoireachta



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