



An Chomhairle
Mhúinteoireachta



The Teaching Council

Complaints about registered teachers

Information for employers

JULY 2016

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 Acts, 2001-2015. You can view or download the Teaching Council Acts, 2001-2015, from our website, 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. Our Investigating Committee will decide whether good and sufficient reasons exist to start an investigation straight away.

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

Yes, we can consider complaints about certain 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.

- 1 Section 28 of the Education Act, 1998, requires the Minister for Education and Skills 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. When section 28 is brought into operation by the Minister, we will generally not be able to look into a complaint until the school's grievance procedures (established under section 28 of the Education Act 1998) have been exhausted. The exception to this is where the Investigating Committee decide there are good and sufficient reasons for conducting an investigation.

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 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 2001-2015, 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 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 Garda 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 type of criminal offence, or where 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 real concern that the teacher may harm or contribute to harm or potential harm, to any child or vulnerable person.

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Duty of employers to inform the Teaching Council

What must the employer tell the Teaching Council?

Regulations under section 37 of the Teaching Council Acts 2001-2015, have been drafted and are in the process of being finalised. These regulations set out the information to be furnished by employers in cases of dismissal or resignation in connection with a complaint against a registered teacher. When the Minister of Education and Skills consents to these regulations, you as the employer will have a legal duty to inform us when:

- a registered teacher resigns as a result of or in connection with a complaint about him or her and/or as a result of, or in connection with disciplinary procedures; or
- a registered teacher is dismissed.

Once the regulations are consented to by the Minister, the Professional Standards section of www.teachingcouncil.ie will be updated with all relevant information for employers.

Please note that these regulations are not yet in operation.

Can the employer make a discretionary referral?

If you have concerns about a teacher's suitability to teach, you should tell us. You can make a referral 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 where children or vulnerable persons are, or may be, at risk of harm. 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 you should inform:

- > the school, where appropriate;
- > TUSLA, the Child and Family Agency; or
- > the Gardaí, where appropriate.

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

3 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 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 Professional Standards 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 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 us. The 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 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 the General information in part 1 of this booklet.

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 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 might not be medically fit to teach, the Investigating Committee might ask the teacher to undergo a medical examination.

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

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

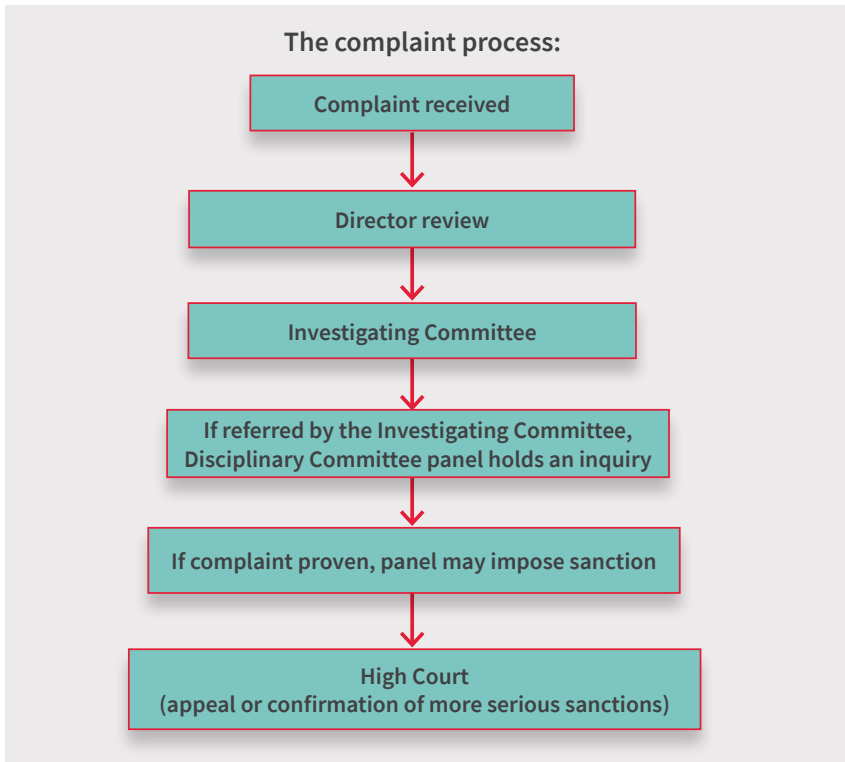
The Investigating Committee can either:

- 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:



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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 who is 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 people 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. Occasionally, hearings may be held elsewhere.

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 Professional Standards section of our website, www.teachingcouncil.ie.

What could happen to the teacher?

The Panel of the Disciplinary Committee that 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 and Skills 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 and Skills.)
-

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, we must apply to the High Court for confirmation of the decision.

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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:

If circumstances warrant, we can ask the High Court to suspend the teacher's registration under section 47 of the Teaching Council Acts, 2001-2015 for a period of time.

This would normally be until we have finished looking into the complaint.

We can make this section 47 application if we consider 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 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, we 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 that there is a reasonable concern that children or vulnerable persons 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.

How long will it take the Teaching Council to consider a complaint?

Each complaint will vary but we aim to have a decision made by the Investigating Committee within six to nine months of the date that we receive a complaint.

If the Investigating Committee decides to refer the complaint to the Disciplinary Committee for an inquiry, we aim to hold the inquiry within six months of the date of this referral.

There may be reasons outside our control which lead to delays in investigating complaints. For example, a complaint could be the subject of an investigation by An Garda Síochána, and the Investigating Committee may decide to pause its' investigation until the conclusion of the Garda investigation, which may take some time.

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

If you would like to know more about our complaints and inquiry process, please go to the Professional Standards section of our website www.teachingcouncil.ie.

You can also contact us by emailing professionalstandards@teachingcouncil.ie or by calling LoCall 1890 224 224 or (01) 651 7900.

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 June 2012 and was updated on the commencement of Part 5 of the Teaching Council Acts, 2001-2015.

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 of the relevant Education and Training Board that 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 considers 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 be reasonably 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.

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Block A, Maynooth Business Campus,
Maynooth, Co. Kildare, W23 Y7X0, Ireland

Lo-Call 1890 224 224

Telephone +353 1 651 7900

Facsimile +353 1 651 7901

Email professionalstandards@teachingcouncil.ie

www.teachingcouncil.ie