



An Chomhairle  
Mhúinteoireachta



**The Teaching Council**

# What to do if a complaint is made about you

**Information for registered teachers**

JULY 2016

## About this booklet

This booklet tells you what to do if a complaint is made about you. 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 [www.teachingcouncil.ie](http://www.teachingcouncil.ie).

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## 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.

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

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)<sup>1</sup>. 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.

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<sup>1</sup> 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.

## 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.

For a complaint to be referred by our Investigating Committee to our Disciplinary Committee, the complaint must be of a serious nature.

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## 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.

### **Can the complaint against me relate to conduct outside the course of my teaching profession?**

Yes, we can consider complaints about certain matters that relate to conduct outside the course of your teaching 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.

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### **Can the Teaching Council look into a complaint about something that happened outside of the school, while in the course of my teaching profession?**

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

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### **Will I be notified of a complaint about me?**

Yes, we will tell you if we receive a complaint about you. We will send you a copy of the complaint, any documents enclosed with it, and any further information we receive about the complaint during the complaint process. You will have an opportunity to comment in writing on the complaint, and on all information and documents we receive during the complaint process.

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### **Will my school or employer be told about the complaint?**

The Investigating Committee may look for information from your school or employer as part of the consideration and investigation of the complaint. Therefore, it is likely that your employer will become aware of the complaint.

In addition, our Investigating Committee will, as soon as possible, notify your employer if there is a concern that children or vulnerable persons are, or may be, at risk of harm.

At the conclusion of the consideration of the complaint by the Investigating Committee, a copy of the Investigating Committee's decision will be provided to your employer.

If the Investigating Committee decides to refer the complaint to the Disciplinary Committee for an inquiry, we will tell your employer the outcome of the inquiry after it has ended.

### **What should I do when I am told of a complaint about me?**

You may wish to seek legal advice or the help of a colleague, union representative or other representative.

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

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### **Is there anything I should not do when I am told of a complaint about me?**

You should not discuss the complaint with the person who made the complaint. If a student or former student is involved, you should not discuss the complaint with the student, or with his or her parents or guardians.



## 2

# The complaint process

### 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.

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

The Investigating Committee will not look into the complaint if:

- you are not registered with the Teaching Council;
- the Investigating Committee believes that the complaint does not relate to your fitness to teach;
- your 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 section in part 1 of this booklet.

If the Investigating Committee decides not to look into the complaint, the complaint process is at an end. It is not possible to appeal the decision of the Investigating Committee.

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### If the Investigating Committee decides to look into the complaint, what will it do?

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

The Investigating Committee may ask the person who made the complaint to send in more information or it might ask your employer or school, or any other relevant person, to send in information.

The Investigating Committee might also seek expert advice or help.

If the complaint suggests that you might not be medically fit to teach, the Investigating Committee might ask you to undergo a medical examination.

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

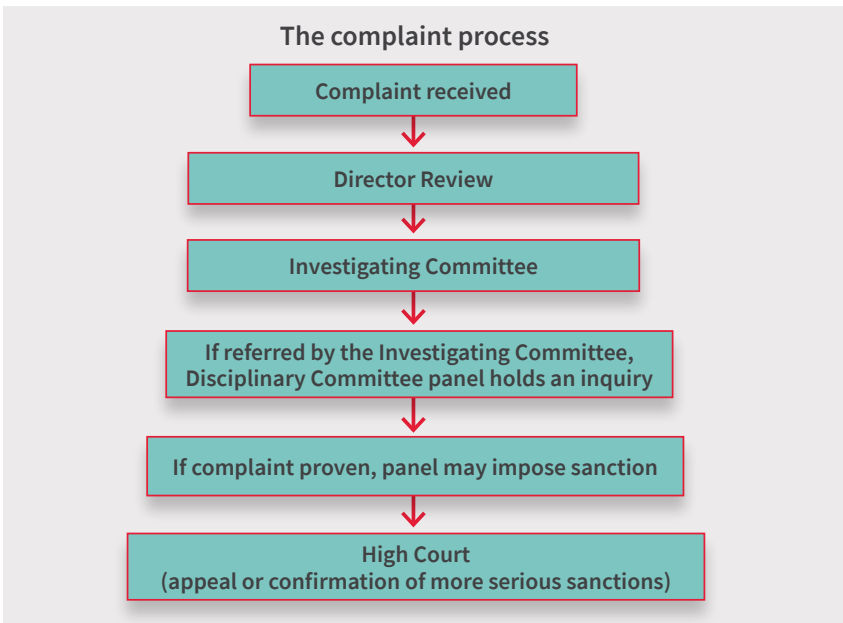
The Investigating Committee can either:

- > refer all or part of the complaint to the Disciplinary Committee for an inquiry; or
- > decide that no further action is required.

If the Investigating Committee decides that no further action is required, the complaint process is at an end. 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:



## 3 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, you can ask that the inquiry take place by an examination of the relevant documents and written submissions rather than as an oral hearing. In addition, the panel of the Disciplinary Committee can ask you 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, especially where facts are disputed, or are at issue.

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### 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. Before the hearing, we will write to you with the location, date and time that you should attend.

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### How is the hearing prepared?

The Director of the Teaching Council will be responsible for preparing and presenting the evidence to the panel at the hearing. The Director is required to prove the complaint at the hearing. The Director will usually get solicitors to help. The Director and solicitors will gather evidence such as reports, correspondence and written witness statements.

Before the hearing, we will send you:

- > a Notice of Inquiry containing the allegations against you;
- > copies of all of the evidence; and
- > a list of witnesses whom the Director will call to give evidence.

## Will the hearing be held in public or private?

Hearings take place in public unless you 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 your identity, or the identity of the other people involved, confidential.

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## Who will be present in the hearing room?

**The panel of the Disciplinary Committee** – this will include three to five people, who are members of the Disciplinary Committee. One member of the panel will act as Chairperson.

**The legal assessor** – this is a barrister who will sit with the panel and advise them about legal or procedural issues. The legal assessor does not decide whether the complaint has been proven. This is a matter for the panel only.

**The Director's legal representatives** – these may include solicitors or barristers who will present the case on behalf of the Director.

**The Teaching Council staff** – these will include relevant staff of the Teaching Council.

**You, the registered teacher.**

**Your representatives** – these may include legal, union or other representatives who may act and speak on your behalf. They will put your position to the panel and will question the witnesses about their evidence. If you do not have representatives, you may defend your own case.

**The stenographer** – this person records all the evidence given at the hearing.

**The public** – if the inquiry is held in public, there may be members of the public, including journalists, present to watch and listen to the proceedings. They usually sit at the back of the hearing room.

### **Can I question witnesses, or can my representatives do so if I am represented?**

Yes, the Director or his/her representatives will call a witness to give evidence and will first ask the witness questions based on his or her signed statement. You or your representatives will then be given a chance to ask questions, following which, the panel may ask some questions. This same process applies for all of the witnesses called by the Director or his/her representatives.

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### **Can I call witnesses or can my representatives do so if I am represented?**

Yes, you or your representatives can also call your own witnesses to give evidence. The Director or his/her representatives and the panel will be able to question your witnesses.

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### **Do I have to give evidence?**

No. It is up to you to decide whether to give evidence.

# 4

## After the inquiry

### What will the panel do when the inquiry finishes?

Regardless of whether the inquiry takes place as an oral hearing or as an examination of relevant documents and written submissions, the panel will prepare a report at the end of the inquiry. The report will say whether the complaint has been proven. Normally, complaints have to be proven beyond a reasonable doubt.

### What could happen to me if the complaint is proven?

If the complaint is proven, the panel will have to decide whether to impose a sanction (penalty).

The panel could decide to:

- a) advise, admonish or censure you;
- b) place conditions on your registration;
- c) suspend you from the register for a set time (up to two years);  
(This would mean that you would not be able to teach in a position funded by the Department of Education and Skills for the time that you are suspended from the register.)
- d) remove you from the register and not allow you to apply to be restored to the register for a set time.  
(As an unregistered teacher, you would not be able to teach in a position funded by the Department of Education and Skills.)

You will be invited to make submissions in relation to any proposed sanction.

### Can I appeal the decision?

If the panel decides to impose one of the sanctions at b) to d) above, you 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 you do not appeal, we must apply to the High Court for confirmation of the decision.

## **Is my employer notified of the outcome?**

Yes, we will notify your employer of the outcome if you are employed as a teacher.

If the complaint is not proven, you can ask the Disciplinary Committee Panel to inform specific people that the complaint has been dismissed or to publish a notice stating that the complaint has been dismissed.

If the complaint is proven, and if a sanction is imposed, we will advise the public of the sanction if we believe that it is in the public interest to do so. We may also decide to publish the findings of the panel if we believe that it is in the public interest to do so.

# 5

## My registration

### How is my registration affected by a complaint?

Your registration generally does not change when we receive a complaint about you. It may change if the complaint is proven at an inquiry.

However, please note the following:

- a) If the circumstances warrant, we can ask the High Court to suspend your 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. You may be informed and invited to attend a meeting before a decision is made to apply to the High Court. If we apply to the High Court and get a High Court order, we will notify you immediately. Depending on the terms of the order you may have to stop working completely or you may have to stop working in a specific manner or specific role for a period of time. The High Court shall include in any order, a direction as to whether you shall continue to be paid while the order is in place.

- b) If we receive a complaint about you:
  - > you will not be permitted to voluntarily withdraw from the Register of Teachers until we have finished considering the complaint; and
  - > you will not be removed from the Register for failure to apply for renewal of registration until we have finished considering the complaint.



## 6

# Additional information

### **How long will it take the Teaching Council to consider the 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 decision.

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 own investigation until the conclusion of the Garda investigation, which may take some time. We will keep you updated while the complaint is being considered.

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### **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](http://www.teachingcouncil.ie).

You can also contact us by emailing [professionalstandards@teachingcouncil.ie](mailto: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.

**Legal Assessor**

a barrister who advises the Panel about legal or procedural issues.

**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.

**Stenographer**

the person who records the evidence given at the inquiry.

**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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