



Comhairle na
nDochtúirí Leighis
Medical Council

Conflict of Interest Policy

January 2025

Policy Administration

In line with Medical Council standard practice, all policies and procedures are reviewed periodically and in line with legislative changes.

Policy Details

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1. Introduction

- 1.1. The Medical Council is the statutory body for the regulation of registered medical practitioners in Ireland as prescribed by the Medical Practitioners Act 2007, as amended. The Council's purpose is to protect the public by promoting and better ensuring high standards of professional conduct and professional education, training and competence among doctors.
- 1.2. The Medical Council is committed to:
 - maintaining the highest standards of conduct in all aspects of its activities, including in particular, its decision-making processes; and
 - ensuring that public confidence in the integrity and fairness of such processes is upheld.
- 1.3. This policy should be read in conjunction with the Medical Council's Code of Conduct for Council and Committee members.
- 1.4. The rules on conflict of interest are derived from the following:
 - The Medical Practitioners Act 2007, as amended
 - Ethics in Public Office Acts 1995 and 2001
 - The Code of Practice for the Governance of State Bodies published by the Department of Public Expenditure and Reform
 - Relevant case law¹.

2. Purpose

- 2.1. Pursuant to the terms of the Medical Practitioners Act 2007, as amended (the “**Act**”), the Council and its Committees are required to conduct various statutory decision-making processes. As such, Council members and certain members of the Medical Council's Committees are authorised to make certain regulatory decisions in such decision-making processes (the “**Decision Makers**”) ².
- 2.2. The aim of this Policy is to outline the key principles that Decision Makers must adhere to in order to identify and declare any actual, potential or perceived conflicts of interest and effectively manage conflicts of interest, having regard to the regulatory environment within which the Council operates, the importance of transparency in decision-making

¹ [O'Ceallaigh v An Bord Altranais \[2009\]](#); [Goode Concrete v CRH plc \[2015\]](#)

² This policy is intended for Council and Committee members only. A separate policy will be developed for the Executive including those who will be delegated decisions under the Act (for example section 57 of the Medical Practitioners Act as amended).

and maintaining the public's trust and confidence in the Medical Council's role as the regulator of registered medical practitioners in Ireland.

- 2.3. In order to ensure public confidence in the integrity and fairness of its decision-making processes, it is of crucial importance to the Council that any of its Decision Makers not only be free from any actual or perceived conflict of interest but be seen to be free of any such conflict.
- 2.4. The final responsibility remains with each individual Decision Maker to undertake their duties as a decision maker in such a way that the independence and integrity of the decisions of the Council and its Committees are neither compromised nor perceived as being compromised. The Council is reliant on Decision Makers taking personal responsibility in relation to declaring conflicts of interests.
- 2.5. If Decision Makers have any queries or concerns in relation to conflicts of interest, they should speak to:
 - the Council President (via the Council Secretary in the case of Council members who are deciding on a matter to be determined at a Council meeting); and
 - the Chairperson to the relevant Committee (via the Committee Secretary in the case of Committee members who are deciding on a matter to be determined at a Committee meeting).
- 2.6. In the case of any doubt, Decision Makers are expected to proactively seek advice on the interpretation of this Policy from the relevant persons set out at 2.5 above.

3. Scope

- 3.1. This Policy applies to all Council members, staff, contractors, assessors and members of all Council's Committees, subcommittees, panels, and working groups who are authorised to make decisions and recommendations (the Decision Makers).

4. What is a Conflict of Interest?

- 4.1. Conflicts of interest can be direct or indirect, potential, actual or perceived. They can cause damage to the Medical Council, causing financial losses and reputational damage. They also undermine trust.
- 4.2. It should be shown, for instance, that the circumstances of the relationship between the decision maker and the subject of the decision [e.g., a doctor the subject of a

complaint], are such that it has the capacity to influence the mind of the decision maker.

- 4.3. In general terms, there is a distinction between actual and perceived conflicts of interest.
- 4.4. An **actual conflict of interest** arises when a Decision Maker's current or previous or personal, employment, financial or political interests could compromise or inappropriately affect the independence, impartiality, and objectivity of their judgement when performing their duties.
- 4.5. A **perceived conflict of interest** arises when an objective outsider, with knowledge of the relevant facts, could reasonably conclude that a Decision-Makers current or previous or personal, employment, financial or political interests could compromise the Decision Maker's independence, impartiality, and objectivity of their judgement when performing their duties.
- 4.6. It is not possible to prescribe a definitive list of situations which may give rise to conflict of interest concerns. Every situation must be considered on its own merits and the appropriate steps taken if a conflict of interest is considered to exist. However, certain conflicts of interest situations are more likely to arise than others. Further details are contained at **Appendix 1** in relation to some common causes of conflicts of interest.
- 4.7. As all members have private interests, it is necessary to identify and manage conflicting interests whenever they arise, to maintain trust. In general, the appearance of a conflict of interest is to be avoided, to minimise the risk to an organisation's reputation. As perceived conflicts of interest could be similarly harmful to the trust in public decision making, members should also consider perception when they decide on specific agenda items. Trust in the integrity of the Medical Council could be seriously damaged by suspicion that the decision-making process could be affected by a conflict of interest.

5. Procedure to report a Conflict of Interest

- 5.1. The Medical Council and its committees are required to conduct various statutory decision-making processes. It is of fundamental importance that the Council is in a position to demonstrate that a Decision Maker is impartial and, therefore, free from issues of bias and conflict of interest. Therefore, Decision Makers must not have any existing or potential, perceived or actual, conflicts of interest whether direct or indirect when they are acting in their role as a Decision Maker.

- 5.2. For this reason, the Medical Council asks Decision Makers to consider whether an issue [of bias] or conflict of interest might preclude them from making a decision in relation to a particular matter that is due to come before the Council or the Committee to which they are appointed, for decision.
- 5.3. Where a conflict (actual or perceived) arises, in advance of a meeting the Decision Maker with the potential conflict should declare it immediately and in writing, in so far as possible before the meeting takes place, to the President of the Council or the Chairperson to the Committee in question, via the Council/Committee Secretary depending on the nature of the meeting at which the particular matter is to be considered.
- 5.4. Should a Decision Maker become aware of a conflict at or during the course of a meeting, they should inform the President of the Council or the Chairperson to the Committee in question, as soon as they become aware of the conflict. If the Decision Maker is a member of a sub-committee, panel or working group referred to in paragraph 3.1, they should inform their lead.
- 5.5. Having declared the conflict in question to the appropriate person (as set out above), the Decision Maker shall:
- withdraw from the meeting in question, for as long as the matter is being discussed or considered;
 - take no part in any deliberation of the Council/Committee in question relating to the matter to be determined;
 - neither influence nor seek to influence any decision to be made by the Council/Committee in relation to that matter; and
 - refrain from voting on any decision in relation to the matter to be determined.
 - wait to be requested to rejoin the meeting for the next agenda item.
- 5.6. Where a Decision Maker discloses a conflict of interest under this Policy, the disclosure of the said conflict shall be recorded in the minutes of the meeting concerned. The minutes will record that a Decision Maker left the meeting in advance of the agenda item and will also record when they rejoined the meeting after a decision had been made.
- 5.7. For as long as the matter to which the disclosure relates is being considered by the meeting of the Council/Committee/Sub-committee/panel/working group in question (including at any subsequent meetings of the Council/Committee/Sub-committee/panel/working group), the Decision Maker who has disclosed the conflict of interest shall not be counted in the quorum for that meeting.
- 5.8. In the event that a Decision Maker has any doubt as to whether or not a conflict of interest exists in relation to them acting as a Decision Maker in respect of a certain

matter, they should disclose to either the President of the Council, the Chairperson to the Committee or subcommittee, or panel/working group lead referred to under 3.1 via their Secretariat, all facts or circumstances that may give rise to any doubt as to their impartiality or independence so that relevance can be considered. Examples of such facts or circumstances are set out at **Appendix 1**. If a member is in doubt as to the existence of a conflict whether actual, perceived or potential, the member should take a cautious approach and absent themselves from the meeting when the matter is for consideration.

- 5.9. Whether a particular set of circumstances gives rise, could give rise, or may be perceived to give rise to a conflict of interest, shall be [reasonably] determined by the President of Council/Chair of the Committee or subcommittees, panel or working group lead referred to under 3.1, and their determination is final. Members must accept the decision of the President/Chair/Lead on the interest and not enter into debate with the Chair or any member of the executive on the matter.
- 5.10. If the Chairperson is the person, who may have a conflict of interest, then another member shall act as the Chairperson for the purposes of determining the issue of the conflict of interest.
- 5.11. Where it comes to the attention of a member, that another member may have a conflict of interest and has not declared their interest, the member should raise the matter with the member in the first instance and in the second instance to the Chairperson.
- 5.12. The duty to disclose a conflict of interest rests on the individual Decision Maker and is a continuing one that endures throughout a decision-making process. Decision Makers should, therefore, be alert to the possibility of a potential, actual or perceived conflict of interest occurring over the course of the decision-making process. Where you identify such a potential, actual or perceived conflict, you should declare it immediately to the President of Council/Chair of the Committee or subcommittees, panel or working group lead referred to under 3.1 via their Secretariat or alternative so advice can be obtained, as necessary, in relation to how the conflict should be managed, and take the advised steps to manage or avoid the conflict.
- 5.13. It is of significant importance to the Medical Council, in any procedural challenge, to be able to demonstrate that both the decision-making process is procedurally fair throughout (from start to finish) and that a Decision Maker is in a position to make an impartial decision on the matters before them.

6. Review of this Policy

- 6.1. This Policy will be reviewed every three years, unless otherwise required.

Appendix 1 – Common situations that may give rise to a conflict of interest

Please note that this list is not exhaustive.

1. **Personal connections:** The personal connections (family, friends etc) maintained by Decision Makers must not influence or be perceived to influence them in carrying out their role as a Decision Maker for the Medical Council/ a Committee of Council.
2. **Past employment position:** Roles that Decision Makers hold or previously held may create or be perceived to create a conflict of interest.
3. **Duty or Loyalty to a third party:** A Decision Maker's duties to a third party who may be impacted by the outcome of a particular decision to be made by a Decision Maker, must not influence or be perceived to influence them in carrying out their role as a Decision Maker.
4. **Duty to appointing body/nominating group:** A Decision Maker's duties to an appointing body or nominating group who may be impacted by the outcome of a particular decision to be made by a Decision Maker, must not influence or be perceived to influence them in carrying out their role as a Decision Maker.
5. **Financial interests:** A Decision Maker's personal financial interests must not influence or be perceived to influence them in carrying out their role as a Decision Maker. If a Decision Maker's financial assets or liabilities create an actual or perceived conflict of interest, then they must disclose it in accordance with the requirements of this Policy.
6. **Prior involvement in a particular case or matter:** A decision-making process may be found to be unfair where the Decision Maker has been involved in earlier/multiple stages of the decision-making processes (for example as an investigator and as final Decision-Maker).
7. Involvement in another decision-making process involving one of the other relevant parties who may be impacted by the decision of a Decision Maker
8. The above list is provided to assist Decision Makers in managing the most common causes of conflict of interest. It is not an exhaustive list.
9. Conflicts may arise which do not fall into any of the categories set out above or which cover more than one category.

Appendix 2 – Common facts or circumstances that may give rise to a concern that a conflict of interest exists

Please note that this list is not exhaustive.

1. Any past or present, direct or indirect, social, business or professional connection of which you are aware with any person (including a party who may be affected by a decision being made by the Decision Maker) the subject of the case and/or matter or anyone else connected with that party. Brief details including the nature and duration of any such relationship.
2. Similar information, as specified at 1 above, in relation to any witness known or likely to be a witness to the case/matter to be decided.
3. Any past or present, direct or indirect, social, business or professional interest in the matters the subject of the case/matter to be decided.
4. The extent of any commitment which may affect a Decision Maker's availability to perform their duties as Decision Maker as may be reasonably anticipated.
5. Any previously expressed opinion or involvement in relation to any matters to be determined by the Decision Maker.
6. Facts or circumstances may arise which do not fall into any of the categories set out above or which cover more than one category.

Appendix 3 – Section 30 of the Medical Practitioners Act 2007

1. *Any member present at a meeting where a specified matter arises who, otherwise than in the member's capacity as a member, has a material interest in that matter shall –*
 - a) *at the meeting disclose to the Council or committee the nature of that interest,*
 - b) *withdraw from the meeting for as long as the matter is being discussed or considered,*
 - c) *take no part in any deliberation of the members relating to the matter, and*
 - d) *refrain from voting on any decision relating to the matter.*
2. *Where a member discloses a material interest under this section*
 - a) *the disclosure shall be recorded in the minutes of the meeting concerned, and*
 - b) *for as long as the matter to which the disclosure relates is being dealt with by the meeting, the member shall not be counted in the quorum for the meeting.*
3. *Where at a meeting a question arises as to whether or not a course of conduct, if pursued by a member, would be a failure by the member to comply with subsection (1) -*
 - a) *the chairperson of the meeting may, subject to subsection (4), determine the question,*
 - b) *the chairperson's determination is final, and*
 - c) *the particulars of the determination shall be recorded in the minutes of the meeting.*
4. *Where the chairperson of a meeting is the member in respect of whom a question referred to in subsection (3) arises, the other members present at the meeting shall choose one of their number to be the chairperson of the meeting for the purposes of that subsection.*
5. *A member who, otherwise than in the member's capacity as a member, has a material interest in a specified matter shall neither influence nor seek to influence any decision to be made by the Council or committee in relation to that matter.*
6. *Where the Minister is satisfied that a member has failed to comply with subsection (1) or (5), the Minister may remove that member from office.*
7. *A member removed from office under this section is not eligible for appointment under this Act.*
8. *In this section—*
 - “meeting” means a meeting of the Council or of a committee;*
 - “member” means a member of the Council or of a committee;*
 - “specified matter” means—*
 - a) *an arrangement to which the Council is a party or a proposed such arrangement, or*
 - b) *a contract or other agreement with the Council or a proposed such contract or other agreement.*