

Fitness to
Practise

Complaints Against Nurses and Midwives **A Plain English Guide**

How the Nursing and Midwifery
Board of Ireland (NMBI) deals
with complaints



Bord Altranais agus
Cnáimhseachais na hÉireann
Nursing and Midwifery
Board of Ireland

Plain
English 
Approved by NALA

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About this guide

This guide outlines how the Nursing and Midwifery Board of Ireland (NMBI) deals with complaints against nurses and midwives in line with the Nurses and Midwives Act 2011. While it does not give you advice, we hope it will help you understand the complaints process, particularly if you do not have legal or union representation.

In this guide, we refer to a nurse or midwife who is the subject of a complaint as **'you'** or **'the registrant'**, and the person who made the complaint as the **complainant**.

Going through a complaint process is stressful for you and for the complainant. NMBI knows this, and it will deal with complaints fairly and in line with the legislation. Dealing with complaints is often a very lengthy process, so it helps to be clear about the broad stages involved so you know what to expect and can prepare. There are four main stages, but you may not have to go through all stages of complaint handling. A number of complaints end after Stage 1.

This guide dedicates a chapter to the four broad stages in the NMBI complaints process. The stages are:

Stage 1: Review by the Preliminary Proceedings Committee (PPC) – initial review only.

Stage 2: Inquiry by Fitness to Practise Committee (FTPC) – report produced with findings and recommendations.

Stage 3: Consideration and decision by NMBI Board about the FTPC inquiry report and sanctions if findings are made against a registrant.

Stage 4: Serious sanctions are confirmed by the High Court.

Each chapter describes the relevant committee or body involved. This guide is summary only and we will write you at different points of the complaint handling process with further details.

You can also find further details on these stages from our website: www.nmbi.ie/complaints. The documents to focus on include:

1. [Nursing and Midwifery Board of Ireland - What to do if a complaint is made about you](#) [A more detailed version of this Plain English guide.]
2. [Nursing and Midwifery Board of Ireland - A Guide to Fitness to Practise](#) [This is a general guide to the full Fitness to Practise process.]
3. [Nursing and Midwifery Board of Ireland - Making a Complaint](#) [This document focuses on how a complainant can make a complaint against a registrant.]
4. [Nursing and Midwifery Board of Ireland - What to do if called to give evidence at a Fitness to Practise Inquiry](#)
5. [Nursing and Midwifery Board of Ireland - Guidance on Sanctions](#)
6. [Nursing and Midwifery Board of Ireland - An Employer's Guide to Making a Complaint](#)

To note

Before we look at each of the four broad stages of dealing with a complaint, we alert you to the fact that NMBI may ask the High Court to suspend a registrant from practising while a complaint is being investigated. (See Appendix 1 for more details.)

This guide's core chapters

This guide has four core chapters that provide a guide to our complaints process. Each chapter focuses on a different stage of the complaints process.

Stage	What happens at each stage
1	Review (a number of complaints end at this stage)
2	Inquiry and report
3	Consider and decide
4	Serious sanctions confirmed by High Court



Stage
1

**Review by the
Preliminary
Proceedings
Committee (PPC)**

What happens at this stage?

In brief, a complaint is brought to the Preliminary Proceedings Committee (PPC). This is a statutory committee of NMBI. The PPC investigates the complaint. It can decide to send it to Stage 2 without consulting NMBI Board. The PPC can also recommend that the complaint should not go to the Stage 2. If this happens, the Board can decide to accept the PPC's recommendation or in a small number of cases it can tell the PPC to send the complaint to Stage 2.

The review stage will usually take months but sometimes can take more than a year.

Stage 1 takes place in private.

In more detail ...

Before the PPC reviews a complaint, NMBI:

1. Writes to the complainant

NMBI writes to the complainant to tell them that it has received the complaint. NMBI might also ask them for further information about the complaint.

2. Writes to you and invites your response

NMBI writes to tell you that there has been a complaint made against you. NMBI will also send you a copy of the documentation about the complaint.

NMBI invites you to respond to the complaint within a set time. You don't have to respond, but most registrants do. If you are a member of a union, you should contact your union for advice before you respond. If you are not a member of a union, you may wish to get legal advice, which you will have to pay for.

The PPC's review and how it forms a view

The PPC reviews the complaint to see if their view is that there is a case to answer – or not – and if it believes further action is needed. A view is not a decision. The PPC does not decide if the complaint against you is proven or if you have done anything wrong professionally.

The PPC may form one of the following two views:

- View 1 – you have no case to answer, **or**
- View 2 – you have a case to answer.

Let's look at each of these in turn.

View 1: No case to answer

PPC is of the view that there is not enough reason to take further action.

After a no case to answer view is formed, the PPC will inform the Board of NMBI.

The Board will decide to accept or reject the PPC's view. If the Board accepts the PPC's view that there is not enough reason to take further action, the complaint against you is closed. NMBI will write to you and the complainant to confirm this decision.

View 2: Case to answer

There will be a case to answer if the PPC is of the view that further action is needed. It will refer the case to the Fitness to Practise Committee (FTPC) for an inquiry.

An inquiry is a formal hearing where the FTPC will hear evidence about the complaint and decide if the complaint is proven or not.



Stage
2

**Inquiry and Report –
Fitness to Practise
Committee (FTPC)**

What happens at this stage?

In brief, the Chief Executive Officer's (CEO) legal team prepares the evidence. It writes to the registrant with the notice of the inquiry. The Fitness to Practise Committee (FTPC) then hears the evidence. Most inquiries last 1-2 days but a small number take longer.

In more detail ...

Before the FTPC holds the inquiry, the following two actions need to happen. The CEO first needs to prepare evidence and then write to you.

1. Prepare evidence

The Chief Executive Officer (CEO) of NMBI will prepare relevant evidence to present at the inquiry. The CEO will do this with the help of lawyers and through NMBI's Director of Fitness to Practise.

Preparing evidence involves:

- reviewing documentation,
- requesting additional documentation,
- meeting with potential witnesses (including possibly the complainant), and
- taking witness statements.

The CEO may also ask an independent expert to prepare a report. This report may be an expert nursing or midwifery report in which the expert gives their opinion about the standard of the nurse or midwife's practice or behaviour. In other cases, the expert report may be prepared by a doctor, usually a psychiatrist. The expert gives their opinion about the nurse or midwife's health and ability to practice safely. The CEO's legal team presents the evidence to the FTPC.

It can take a long time to prepare for an inquiry, and the exact time will depend on how complicated the case is, the number of witnesses, documents involved, and so on.

2. Write to you

The CEO will send you:

- a “Notice of Inquiry” – a document that sets out the allegations (unproven statements declaring that something has happened) against you and the people that will be called to give evidence, as well as details about the inquiry’s date, time and location,
- other relevant documentation, including witness statements,
- notification that you and or your representative are entitled to be present at the hearing, and
- notification that you can apply to have the inquiry held other than in public. Inquiries are normally heard in public which means that members of the public and the media may attend. Inquiries may be heard in private if there are special circumstances.

The inquiry

Inquiries happen in a similar manner to a court case and are very formal. Usually, three members of the FTPC hear each case. These include:

- one nurse or one midwife, and
- two people who are not nurses or midwives.

An independent legal adviser also helps the committee, and one member of the FTPC will act as chair of the inquiry.

Before and throughout the inquiry, you:

- are presumed to have done nothing wrong (known as the presumption of innocence);
- may be represented by lawyers and/or your union, but this is not a requirement;
- may represent yourself (but this is rare) or decide you do not want to attend;
- may call your own witnesses;
- may give oral evidence but you do not have to; and
- may submit documentation in support of your case.

The legal representatives acting on behalf of the CEO of NMBI (represented by the Director of Fitness to Practise) will open the inquiry. It is up to them to make the case against you – not the complainant.

The legal representatives will start the inquiry and then you or your representative get your opportunity to input.

They will outline the case against you and present evidence to the FTPC. The latter may involve calling witnesses to give oral evidence (evidence under an oath of truth), questioning them, and submitting documentation relevant to the complaint.

When the CEO's legal representative has finished asking witness questions, your representative can question witnesses. The FTPC can also ask questions of witnesses.

The legal representatives for NMBI must legally prove the allegations beyond a **reasonable doubt**.

Once the legal representatives have presented their case, you or your representative may call witnesses to give evidence. The CEO's legal representatives may cross-examine any witnesses called on your behalf. The FTPC may also ask these witnesses questions.

Inquiry report

After the inquiry, the FTPC will prepare a report of its findings for each allegation (unproven statement) against you. The report will state if an allegation was:

- proven to have occurred and to be professionally wrong, or
- not proven to have occurred or not proven to be professionally wrong.

If all allegations were **not proven** to be professionally wrong, the Board of the NMBI will still consider the report in Stage 3 of the complaints process but they will have to dismiss the case.

If an allegation was **proven** to be professionally wrong, the FTPC's report will recommend a sanction for the Board to consider in Stage 3, where the Board will consider and decide on the FTPC's report and, in particular the sanctions. A sanction is what happens when something wrong was done. Sanctions range from being given a warning to a more serious sanction like being taken off the Register of Nurses and Midwives.

The inquiry report will be sent to the Board and to you. The process now moves to Stage 3.



Stage
3

**NMBI Board
considers
the FTPC's report**

What happens at this stage?

In brief, NMBI Board considers the Fitness to Practise Committee's report. It also decides on sanctions if findings were made against you. If no findings were made against you, the Board will formally dismiss the complaint. If findings were made against you, the Board must decide on sanctions.

In detail ...

Before the Board makes a final decision, it must do the following:

1. Consider the FTPC's report in detail and dismiss a complaint if no findings are made against you

The Board will consider the FTPC's report.

If there are no findings made against you, the Board **must** 'dismiss the complaint'. It has no other option, and the Board cannot take any further action against you.

2. Invite you to a Board meeting if there are findings made against you

If there **are** findings made against you, the Board invites you and any legal or union representative to come to a Board meeting and speak to the Board, usually about the proposed sanctions. The Board will listen and may ask questions **before** it decides on sanctions.

- The Board does not re-hear allegations.
- The person who made the complaint has no formal role at this stage and will not be at the Board meeting.
- Usually, there are 15 to 20 people at this formal meeting.

3. Decide on relevant sanctions

If there are findings made against you, the Board must consider what sanctions to impose. The Board may impose the sanctions recommended in the inquiry report **or** different sanctions. The sanctions can vary from minor sanctions to more serious ones.

Minor sanctions include advice, admonishment and censure and the serious ones include fines, the attachment of registration conditions, temporary suspension or cancellation of your registration. The Board will write a letter to you about the sanction it decides on – and about the appeal process (see point 6 on the following page).

4. Consider and decide whether to publish inquiry-related information

The Board must also consider and decide whether to publish the findings, the sanction (if more serious), and the transcript (written account) of the inquiry on the NMBI website and in the NMBI e-zine. This will only happen **if** a registrant had findings made against them. Nothing can be published until the process is complete. The Board cannot publish the sanctions about an advice or an admonishment. It may publish other sanctions if it would be in the public interest to do so.

5. Notify certain parties

The Board must notify certain parties if it decides on sanctions other than an advice or an admonishment. These parties include:

- the Minister for Health,
- the HSE,
- an employer (if not the HSE), and or
- nursing or midwifery regulators in other countries (as appropriate).

The complainant is always notified about the outcome of the complaint.

6. Notify you about chance to appeal

You will also get information about the appeal process, including your right to appeal the findings made against you or to appeal against the sanction imposed to the High Court. If you wish to make an appeal, you need to do this within 21 days from the date of receipt of Board's letter – **if** you wish to make an appeal to the High Court.

7. NMBI will contact the High Court (if no appeal is filed)

If no appeal is filed within 21 days of the date of the letter from the Board, NMBI will apply to the High Court to confirm the sanctions. When the High Court confirms these, the sanctions will take effect.



Stage
4

**Serious sanctions
are confirmed by
High Court**

What happens at this stage?

In brief, at this stage the High Court either confirms the sanctions decided on by NMBI Board or considers an appeal against the findings or sanctions (other than an advice, an admonishment or censure).

In detail ...

The High Court hears an appeal by a registrant against findings or sanctions (other than an advice, an admonishment or censure). This is a lengthy process. An appeal can involve a full re-hearing of all the evidence or written and oral submissions made by legal representatives of the CEO of NMBI and the registrant. The High Court can make the same decision that the FTPC and NMBI Board made or make a different decision.

If the registrant does not appeal against a sanction (other than an advice, an admonishment or censure), the High Court is asked to make an order confirming that those sanctions take effect.

Final note

We hope you found this guide helpful. If you have any questions, please see the documents on page 4 or email or write to the address below.

Email: ftp@nmbi.ie

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18-20 Carysfort Avenue
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Appendix

1

**Points about
immediate
suspensions while
a complaint is
being dealt with**

This section tells you about key points when NMBI may seek to have the registrant's registration suspended immediately. It will do this if it receives information that, if true, is potentially very serious in that there are potential risks to the public in allowing the registrant to continue to practise for the duration of the complaints process. Usually, suspension prevents the registrant from working in their role until the complaints process has fully concluded.

Registrant will be invited to speak to the Board

If NMBI is considering suspending a registrant, it tells its Board at the earliest opportunity. The registrant will be invited to speak to the Board and can be represented by lawyers and/or their union, but it is not a requirement that this happens.

Decision made about High Court involvement

The Board will then **decide** whether to make an application to the High Court to suspend the registrant.

If the Board decides on suspension, the Board applies as soon as possible after the meeting to the High Court.

High Court hearing to decide

The High Court application is heard in private. The registrant can attend the hearing in the High Court.

If the High Court is satisfied to suspend the registrant, this order will usually last for the duration of the complaints process.

NMBI will notify the registrant and others about the High Court's decision

NMBI will write to the registrant and complainant about the result of the High Court hearing.

NMBI will also notify other relevant people and bodies such as:

- The Minister for Health
- The CEO of the HSE
- The registrant's employer (if known)
- Other regulators if NMBI know or believe the registrant is registered with them

The suspension order, **if** granted, does **not** affect the registrant's presumption of innocence at the inquiry. Nothing has been proven against the registrant at this stage.

The Board and the High Court are not making findings against a registrant, and they are not sanctioning (warning or reprimanding) that nurse or midwife.

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