

Complaints against Registered Dentists

If you have a complaint involving unprofessional conduct on the part of a registered dentist, you may lodge your complaint with the Dental Council. This pamphlet explains how to make such a complaint. It also describes how the Council deals with a complaint.

The procedure for dealing with complaints against registered dentists is set out in the Dentists (Registration and Disciplinary Procedure) Regulations (“the Regulations”). The procedure set out in this pamphlet is only a summary. For details, please refer to the Regulations.

1. Jurisdiction of the Dental Council

The power of the Dental Council to regulate the professional conduct of registered dentists comes from the Dentists Registration Ordinance, Chapter 156, Laws of Hong Kong (“the Ordinance”). In exercising that power, the Dental Council must:

- operate within the power given to it by the Ordinance;
- follow the disciplinary procedures set out in the Regulations;
- observe the rules of natural justice;
- act impartially and even-handedly towards both the complainant and the registered dentist being complained against.

2. Can the Dental Council deal with compensation matters?

No, refunds or compensation matters are not within the powers of the Dental Council. The Council can only exercise disciplinary power over the professional conduct of registered dentists.

Claims for refunds or compensation have to be made through legal proceedings in the civil court, for which you should seek advice from your own lawyer. The disciplinary procedures of the Dental Council cannot be used as a means for obtaining refunds or compensation from dentists.

Please note that unlike private litigation between you and the dentist, disciplinary proceedings of the Dental Council are governed by the Regulations and cannot be disposed of by settlement between the complainant and the dentist. If any person attempts to dissuade or prevent you from giving truthful evidence at the inquiry, that person commits an offence of perverting the course of public justice.

3. Can the Dental Council deal with complaints against dental organizations?

No, the Dental Council only has jurisdiction over registered dentists. Therefore, the Council cannot deal with complaints against dental organizations or hospitals. Similarly, the Council cannot deal with complaints against persons who are not registered dentists.

4. How to make a complaint?

You should make the complaint in writing, in either Chinese or English. You are encouraged to use the form at the end of this pamphlet, in order to facilitate processing by the Dental Council and to ensure that the relevant information is provided.

Please note that the Court of Appeal has remarked that anonymous complaints should not be processed.

The following information is required:

- Your full name, address and contact phone number.
- The full name and practising address of the dentist.
- A detailed description, in chronological order and with specific dates, of the relevant events leading to the complaint.
- Specific particulars as to what the dentist has done wrong.
- Copies of all relevant documents and evidence such as dental and medical records, dental and medical reports, x-ray films, photographs, and study models.
- Names and addresses of persons who witnessed the events or who could support your complaint from their own personal knowledge. *(If possible, please also provide written statements from the witnesses.)*

5. Is there a time limit for making complaints?

No, you can make a complaint at any time. However, the longer a complaint is delayed, the more likely evidence will be lost. Early complaint is encouraged.

6. Can you complain to both the Dental Council and other authorities at the same time?

Yes, you can complain to the Dental Council even if you have complained to other authorities such as the police or have taken legal action against the dentist. In certain circumstances it may be necessary for the Council to wait for the other authorities to complete their investigations before taking any action.

7. How will your complaint be dealt with?

Your complaint will first be considered by the Chairman of the Preliminary Investigation Committee ("PIC") of the Dental Council. The Chairman of the PIC may either refer the complaint to the PIC for further consideration, or decide that the complaint should not be further processed if the complaint is frivolous or groundless.

The PIC will decide whether the complaint should be referred to the Council for an inquiry to be held. The PIC may conduct further investigation before making the decision. If the complaint is referred for inquiry, an inquiry will be held by the Council to determine whether the dentist has committed unprofessional conduct.

8. What will be your obligations as a complainant?

You should cooperate with the Dental Council in the investigation of your complaint. Otherwise, the Dental Council may not be able to process your complaint. You may be asked to make a statutory declaration to support your complaint, or to provide clarification or further information. The Secretariat of the Council and the Department of Health provide the service of administering statutory declarations free of charge.

You may also be required to give evidence under oath as a witness if an inquiry is held. If necessary the Council may issue a witness summons to secure your attendance. If any person attempts to dissuade or prevent you from giving truthful evidence at the inquiry, that person commits an offence of perverting the course of public justice.

9. Will the dentist be informed of the complaint?

The dentist whom you complain against will not be informed about the complaint until and unless the Chairman of the PIC decides to refer the complaint to the PIC for consideration. Please see paragraph 11 below.

10. Under what situations will the Chairman of the PIC decide not to further process a complaint?

All complaints against dentists are taken very seriously by the Dental Council. However, the Chairman of the PIC will decide not to refer a complaint to the PIC for further processing if the complaint is frivolous or groundless and that it would not be practical to carry on with the disciplinary proceedings.

The following are some examples of complaints which are unlikely to be taken forward:

- Allegations which do not constitute unprofessional conduct.
- Complaints of a frivolous nature.
- Complaints where the dentist concerned cannot be identified.
- Complaints in which the complainants refuse to support their allegations by statutory declarations, to provide further information or clarification, or to give evidence to substantiate the allegations in an inquiry to be held.
- Complaints against hospitals or organizations, as they are not within the jurisdiction of the Dental Council.

If your complaint is not further processed, you will be notified and given an explanation for the decision.

11. What happens if your complaint is referred to the PIC?

If your complaint is referred to the PIC by the Chairman of the PIC, your letter of complaint and relevant documents will be sent to the dentist concerned for his explanation. However, your contact details such as your address and telephone number will not be disclosed to the dentist.

The PIC will then meet to consider all the information from both the complainant and the dentist concerned. The PIC may also conduct further investigation such as obtaining opinion from an independent expert. In the course of the investigation, the PIC may have to contact you again for clarifications and further information.

After considering your complaint, the PIC may either refer the complaint in whole or in part to the Dental Council for inquiry, or decide that no such inquiry shall be held.

12. What happens at an inquiry?

An inquiry is a meeting of the Dental Council to determine whether your complaint is proved. The inquiry is conducted by a panel formed by Members of the Council. You will be notified in due course of the date, time and place of the inquiry. The dentist concerned may defend the charge against him either by himself or by a lawyer. Inquiries are usually held in public.

You may be required to give evidence as a witness, in which case you will be given advance notice. You will have to give evidence under oath. You may be questioned by the Council Members hearing the case, and by the lawyer defending the dentist.

13. What can the Dental Council do if the dentist is found guilty?

The Council has the power to make various disciplinary orders if a registered dentist is found guilty of unprofessional conduct. For example, the Council may give the dentist a warning or reprimand. In more serious cases the Council may order the removal of the dentist's name from the General Register of Dentists for a specified period, in which case the dentist is prohibited from practising dentistry during that period. In very serious cases the Council may order removal of the dentist's name from the General Register indefinitely.

14. Can the dentist appeal against the decision of the Dental Council?

Yes, the dentist can appeal to the Court of Appeal. However, you will not be required to appear at the appeal hearing. The Court of Appeal may affirm, reverse or vary the orders made by the Council.

15. How to contact us?

If you wish to lodge a complaint or obtain further information, please write to us at:

Dental Council Secretariat
4/F, Hong Kong Academy of Medicine Jockey Club Building
99 Wong Chuk Hang Road, Aberdeen, Hong Kong

For enquiries, you may also contact us by telephone at 2873 5003, by fax at 2554 0577 or by email: dchk@dh.gov.hk.

The attached form is designed to help you make your complaint in a comprehensive manner. Although it is not a requirement, you are encouraged to use the form or follow its format as closely as possible so as to facilitate speedy processing of the complaint.

Complaint against Registered Dentist(s)

Details of the Complainant

1. Your full name (*The Court of Appeal has remarked that anonymous complaints should not be processed*):

Mr/Mrs/Ms/Miss _____

2. Correspondence address: _____

3. Daytime phone no.: _____ 4. Home phone no.: _____

5. Fax no.: _____

6. Are you the patient in this complaint? (*If 'Yes', go to question 9*) Yes No

7. Are you complaining on behalf of someone else? Yes No

8. If your answer to question 7 is 'Yes', what is your relationship with the patient and what is the patient's full name and contact particulars?

Details of the Dentist(s)

9. The full name and practising address of each dentist you are complaining about:

Dentist A : Dr. _____

Dentist B : Dr. _____

Dentist C : Dr. _____

11. Do you have any documents or other evidence (such as dental records, dental reports, x-ray films, photographs, and study models) which may support your complaint or may be useful to the Council in the consideration of your complaint? If you do, please send us the originals or copies of such documents or other evidence, and list them out below. All originals will be returned to you after the conclusion of the case.

1. _____ Original Copy

2. _____ Original Copy

3. _____ Original Copy

4. _____ Original Copy

5. _____ Original Copy

12. Are there any other person(s) who witnessed the matters you are complaining about? (*If 'No', go to Question 14*) If there are, please provide their names and contact particulars below, and describe how they were involved in the event. It would be helpful if you could provide written statements from them.

13. Would those persons mentioned in question 12 above be prepared to provide written statements to the Dental Council?

Yes No Not sure

14. Have you taken legal action about this matter? Yes No

15. Have you complained to any other authorities about this matter? (*If 'No', go to Question 17*)

Yes No

16. If your answer to question 15 is 'Yes', please tell us which authority you have complained to. Give us brief details of that complaint and the result (if already known), and send us copies of any correspondence with that authority.

17. If your complaint involves other authorities (e.g. the Hong Kong Police Force), do you agree to our forwarding this complaint to them for investigation?

Yes No

Your signature: _____ Date: _____

<i>Checklist</i>

Have you done the following?

- Given us your full name and a daytime contact phone number.*
- Given us the necessary details to identify the dentist(s) concerned.*
- Detailed what has happened and when it happened.*
- Specified what your complaint is.*
- Sent us all relevant documents or evidence (such as dental records, dental reports, x-ray films, photographs, and study models).*
- Sent us correspondence with other authorities to whom you have also made a complaint.*
- Signed and dated your complaint.*

Thank you for filling in this form. We would acknowledge receipt of your complaint as soon as possible.