

# **SOCIAL WORK PROFESSION BOARD**

## **INQUIRY PROCEDURE**

(Cap 468, Art. 5(1)(j))

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## **1. TITLE**

The title of this procedure is “Social Work Profession Board – Inquiry Procedure ”

## **2. DEFINITIONS**

“Act” means the Social Work Profession Act (ACT XXIX of 2016, Chapter 468 of the Laws of Malta), hereinafter referred to as the “Act”;

“Board” means the Social Work Profession Board;

“Code” means the Malta Code of Ethics for Social Workers;

“Complainant” means the person making an allegation of professional misconduct, gross negligence or incompetence (hereinafter “allegation”) on the part of a social worker in his regard or the parent with respect to his child, being a minor, or the attorney or lawful representative or mandatory of the complainant, or interested third party being any person who shows to the satisfaction of the Board that he has a legitimate interest in the matter of the allegation.

“Minister” means the Minister mentioned in the Act;

“Procedure” means the “Inquiry Procedure”;

“Respondent” means the social worker against whom the allegation is directed;

“Social Worker” means the person mentioned in the Act.

## **3. PRINCIPLES**

3.1 The general purpose of this procedure is, firstly, the endorsement of the provisions of the Social Work Code of Ethics – Values and Principles for the Social Work Profession, the protection of clients, the public and organisations from professional misconduct, gross negligence or incompetence by social workers; and, secondly, the protection of social workers from unfair and/or unjust allegations.

3.2 In the pursuit of these objectives, the observance of the following principles is of major importance in the implementation of this procedure:

3.2.1 Natural justice to ensure a fair and impartial hearing;

3.2.2 Non-discrimination to afford the same treatment to different persons irrespective of their race, place of origin, political opinions, colour, creed or sex;

3.2.3 Conflict of Interest that would entitle a member of the Board to abstain from hearing an allegation, or a party to challenge a member of the Board from hearing a case(case).

3.2.4 The proceedings before the Board shall be held in private, and will not be open to the public. The records of the proceedings shall be kept secret.

3.2.5 The complainant and the respondent shall have the right to be legally assisted during the proceedings before the Board.

## **4 PROCEEDINGS**

4.1 The purpose of this Procedure is to receive, investigate and adjudicate allegations concerning a claim of professional misconduct, gross negligence or incompetence by a social worker.

4.2 The complainant shall file the allegation in writing with the Secretary of the Board not later than twelve months from the date when the matter giving rise to the allegation occurred.

4.3 The complainant shall indicate the name and surname of the social worker concerned and the date and place where the facts concerning the allegation occurred. Provided that the Board shall not divulge name and surname of the social worker concerned to any entity other than the Courts of Malta or the executive police.

4.4 The allegation shall also indicate the alleged professional misconduct, gross negligence or incompetence on the part of the social worker mentioned in article 4.1

4.5 Upon an application by the complainant, the board may extend the period within which the complainant can lodge the same mentioned document in Article 4.2. If circumstances beyond the control of the complainant or *force majeure* prevent the complainant from filing the allegation as aforesaid, the complainant shall file the allegation on the day on which such circumstances or *force majeure* would have ceased.

4.6 In the case of a minor, the time limit for the filing of an allegation shall commence from the date on which the minor shall have reached majority age, unless that allegation is filed by the person mentioned in the definition of “complainant” under Part 2 of this Procedure.

Provided that, where the minor shall have reached majority age during the hearing of the allegation, the minor shall assume personal responsibility for the acts before the Board, and the records of the hearing shall be registered in the minor’s name.

4.7 In the case of a person interdicted or incapacitated according to law, the allegation is to be filed on his behalf by the guardian appointed by the Court.

4.8 The Board shall reject any allegation where the matter alleged is clearly unfounded. The Secretary of the Board shall inform the complainant accordingly.

4.9 The Board shall appoint a date for the hearing of the allegation within thirty five working days from the filing of the allegation.

4.10 The Secretary shall:

4.10.1 register the allegation;

4.10.2 acknowledge receipt of the allegation;

4.10.3 notify the respondent with a copy of the allegation;

4.10.4 request the respondent to submit a reply in writing to the allegation within twenty-five days from the date of the notification of the allegation to the respondent;

4.10.5 send a copy of the reply of the respondent to the complainant;

4.10.6 notify the parties of the date appointed for the hearing of the allegation.

4.11 Documents relating to the allegation shall bear the names of the parties and the registration number of the allegation.

4.12 The Board shall terminate the hearing if the complainant fails to appear without a valid reason or does not show interest in the case. The Secretary of the Board shall inform the parties accordingly.

4.13 Failure by the respondent to submit a reply or to appear for the hearing shall not prevent the Board from hearing the allegation on the merits.

4.14 The complainant may withdraw the allegation *viva voce* or in writing before the Board or in writing to the Secretary of the Board, at any stage of the proceedings. Unless the respondent is present for the hearing or where the complainant writes to the Secretary as aforesaid, the Secretary shall notify the respondent with such withdrawal within five days following the date of the withdrawal.

4.15 If proceedings are pending before a court of law on the same subject-matter of the allegation, the Board shall suspend the hearing until after the completion of such proceedings and shall regulate itself accordingly.

4.16 In the course of the hearing, the Board may summon witnesses to be examined *viva voce* under oath. The Board may request the parties to further submit evidence orally or in writing, or by means of affidavit, where appropriate.

4.17 In the course of the hearing, the parties shall be entitled to make oral and/or written submissions and to call witnesses for examination and cross-examination according to law.

4.18 The complainant and the respondent may present their case themselves or may choose to be represented or aided by a person or persons of their trust.

4.19 The complainant shall present and conclude his case, who shall be followed by the respondent to reply and conclude his case.

4.20 All the evidence submitted at the hearing shall be made available to the parties.

4.21 The proceedings of the hearing shall be recorded and the recording shall form an integral part of the records of the complaint.

## **5. CONCLUSION**

The Board, within two months from the closure of the hearing, shall submit a report to the Minister, which shall include its findings on the facts of the case, the motives for its decision and any recommendations.

## **6. APPLICATION**

6.1 This Procedure shall come into effect and be applicable on the first day of January 2012.

6.2 To all intents and purposes, the provisions of the Inquiries Act (Act XIX of 1977, Chapter 273 of the Laws of Malta) shall, *mutatis mutandis*, apply to this Procedure, and shall, in case of variance or inconsistency prevail over this Procedure.

## **7. TRANSITORY PROVISION**

Allegations received by the Board before the date of the coming into effect of this Procedure, shall be admissible, saving the provisions of Articles 4.2 and 4.9 of this Procedure.

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Last amended: 25.11.2017