

## **Guidelines for making a complaint about the conduct of a member of the Institution of Civil Engineers**

This contains advice to members of the public, members of the Institution of Civil Engineers (ICE) and members of other professional bodies who may be dissatisfied with the professional conduct of a member of ICE and wish to know if they have grounds to make a complaint to ICE.

### **What you can complain about**

You may complain to the Institution of Civil Engineers (ICE) if you think that a civil engineer who is a member of the Institution is guilty of **“improper conduct”**. This means that the member of the ICE has not been honest, trustworthy or ethical in the way the work was done or in anything to do with his or her work.

It can also mean that in the member’s work he or she has not done enough to protect either your health and safety or the health and safety of others.

A member of the ICE who has been found guilty of a criminal offence may be guilty of improper conduct, even if this has nothing to do directly with his or her work. It will depend on what the member of the ICE has done.

Improper conduct is distinct from ‘negligence’. If you consider a member has been negligent and want to seek redress, you should pursue this matter by a separate procedure such as litigation or other dispute resolution process. The ICE will not normally consider a complaint against a member while such a claim is being pursued.

### **Who you may complain against**

You may complain about anyone who is a member of the ICE of whatever grade of membership. Usually they will have the letters Eng Tech ICE, or AMICE, or MICE, or FICE after their name on their note-paper or bills or in advertisements. There are also other grades of membership, such as Students and Graduates, who do not have any letters after their names to show that they are members of the ICE Institution. But if you want to be sure, you should contact Joanne Phillips, the Clerk to the Professional Conduct Panel at the ICE (telephone: 020 7665 2065) who will be able to tell you if the person is a member of the Institution.

### **Making a Complaint**

If you wish to make a complaint against a member of the ICE, you should first contact Joanne Phillips, the Clerk to the Professional Conduct Panel, who will advise you about the procedure for making a complaint. His contact details are:

Direct telephone number: 020 7665 2065  
e-mail address: joanne.phillips@ice.org.uk

### **The Information Required**

- **What you are complaining about**

This should be a statement of exactly what it is that you think our member has done wrong, stating your reasons for regarding his or her behaviour as amounting to improper conduct. This should be a straightforward, logical account in simple language.

- **Record in date order of what has happened**

Besides the statement of what you are complaining about, you may wish provide a record of all the important events in the order in which they occurred. This will be particularly helpful if there are a

series of related incidents spread over a period of time which, if taken together, could be considered to amount to improper conduct, but which, if viewed separately, would not necessarily be seen to be so serious.

- **Evidence to support your complaint**

You should send in copies of whatever evidence is available to support your complaint, that is, to prove, as far as possible, that what you are saying is true. This can mean such things such as letters, plans, drawings, photographs, bills or invoices and the terms of engagement and conditions of contract.

You should only send in evidence that has a direct bearing on what you are complaining about. If you are not sure what you should send in, you may ask the Clerk to the Professional Conduct Panel for advice (see details in the accompanying letter).

- **Certificate**

You should also sign, date and return the enclosed certificate that a copy of your complaint and the evidence you have sent in may be sent to the member you have complained against, and that you are not taking any legal action in relation to any matter connected with your complaint.

## **The Professional Conduct Panel**

Your complaint will be first considered by the ICE's **Professional Conduct Panel**. This is made up of between ten and twelve Fellows of the Institution, at least six of whom are past or present members of the ICE's governing Council. The Professional Conduct Panel has to decide if the evidence submitted with the complaint discloses a case to answer.

To avoid delay, a complaint about a member's professional conduct is usually referred to a quorum of three members of the Panel to consider. If they consider that there is a case to answer, a copy of your complaint, and the evidence you have supplied, will be sent to the member you have complained against. He or she will be asked to put in writing a response to your complaint.

If the members of the quorum considering your complaint think that the complaint is not justified, or that your complaint is not about professional conduct, they will refer it to the next full meeting of the Professional Conduct Panel. If a majority of the Panel thinks that the complaint is not justified, or that your complaint is not about professional conduct, the Panel will write and tell you so. Usually, the member you have complained about will not be told about the complaint.

If the Professional Conduct Panel considers there is a case to answer, a copy of your complaint, and the evidence you have supplied, will be sent to the member you have complained about. He or she will be asked to put in writing a response to your complaint.

The Professional Conduct Panel will not normally proceed with a complaint whilst legal action is pending.

When the response to your complaint has been received from the member you have complained against a copy of this will be sent to you so that you may comment on it if you wish. When your comments have been received, a copy of these will be sent to the member for the member's observations.

When the member's observations have been received, all these documents, together with your original complaint, will then be considered by the Professional Conduct Panel at the next meeting of the full Panel.

The member of the ICE complained about does not have to reply. But if the member fails to do so, the Professional Conduct Panel will still consider your complaint.

## **The Professional Conduct Panel's decision**

The Professional Conduct Panel will decide one of the following:

- That the Rules for Professional Conduct have not been broken, or;
- That the evidence does not disclose a case to answer, or;
- That the member may be at fault but the matter complained about is not serious enough for it to be referred to the Disciplinary Board, or;
- That the member has a case to answer and that the matter is sufficiently serious for the Professional Conduct Panel to refer the complaint to the **Disciplinary Board**.

If the Professional Conduct Panel decides that the Rules for Professional Conduct have not been broken, it will inform you, and the member you have complained about, of the reasons for its decision.

In some cases the Professional Conduct Panel may decide that although the Rules for Professional Conduct have not been broken, the member's conduct has been below the standard the Institution would expect of its members. In such cases the Panel will tell the member, and if appropriate, advise the member of what should have been done. The Professional Conduct Panel may also do this if it decides that although the member has been guilty of improper conduct it is not serious enough to be referred to the Disciplinary Board.

The member and the person making the complaint will be informed of the Professional Conduct Panel's decision as soon as possible after it has considered the complaint. If the complaint is to be referred to the Disciplinary Board the member is told of the date on which the Board is to deal with the complaint. The member is also informed of what happens at the hearing and the procedures used by the Board.

## **The Disciplinary Board**

The Disciplinary Board is responsible for adjudicating in all cases referred to it by the Professional Conduct Panel. It will decide whether the accused member is guilty of the alleged misconduct, and if it finds that he or she is guilty, it will decide what penalty should be imposed. The Disciplinary Board consists of a total of eighteen members, fourteen of whom are past members of the ICE's governing Council, including at least five past Presidents or past Vice-Presidents. The remaining four members are lay persons, i.e. they are not members of the Institution, nor are they drawn from any other part of the engineering or construction industries. Any complaint referred to the Disciplinary Board is heard by at least five members of the Disciplinary Board, including at least one lay member. At the hearing, the accused member is allowed to conduct his or her own case or to be represented.

No other persons are permitted to attend hearings of the Disciplinary Board.

If the Disciplinary Board finds the member guilty of the allegations against him or her, it has the power to make the following Orders, which are:

- Expulsion from Membership;
- Suspension from Membership for any period;
- Imposition of a Fine of up to £2000;
- Reprimand;
- Admonition.

The Disciplinary Board will, unless it sees particular reasons for not doing so, arrange for the details of the order against the guilty member to be published.

## **Timetable for dealing with complaints**

The Professional Conduct Panel meets four times a year, usually in March, June, September and December. The stages for dealing with a complaint before it can be considered at a meeting of the Panel are as follows:

- Consideration of the complaint by a quorum of the Panel (four weeks);
- Obtaining the member's observations (four – six weeks, allowing for post),
- Obtaining the complainant's observations (three – four weeks, allowing for post);

- Obtaining the member's final observations (three – four weeks, allowing for post).

Completing this process in order that the complaint and the observations from the member and the complainant can be considered at the next full meeting of the Panel can therefore take up to four months.

If the matter is referred to the Disciplinary Board, a hearing is arranged as soon as is practicable. Usually, hearings take place within three – six months of the case having been referred to the Disciplinary Board.

## **Right of Appeal**

A member of the ICE who has been found guilty of improper conduct has the right of appeal to an independent Appeal Tribunal of the Institution within 28 days of the date on which the Disciplinary Board's decision is notified to the member, or, in the case of a Suspension, the date the Order is notified to the member. An appeal must be in writing and delivered to the Institutions registered address. An administrative charge, determined by the Council, must be paid within 28 days of the date on which the Disciplinary Board's decision, is notified to the member, or, in the case of a Suspension, the date the Order is notified to the member.

An appeal received after 28 days will be deemed invalid unless the Leave-to-Appeal Panel considers that there are exceptional circumstances that justify an extension.

The Leave-to-Appeal Panel consists of one Past President, who sits as the Panel's Chairman, a past member of the Council and a person who is not a member of the Institution.

The Appeals Tribunal consists of one Past President, who sits as the Panel's Chairman, a past member of the Council and a person who is not a member of the Institution. No person who has been a member of the Leave-to-Appeal Panel considering the case shall be a member of the Appeals Tribunal.

The members of the Leave-to-Appeal Panel and the Appeals Tribunal shall be nominated by the Appeals Selection Panel. No current member of the Disciplinary Board or Professional Conduct Panel, or past member of either body who participated in the consideration of the original case, shall be a member of the Appeals Selection Panel, the Leave-to-Appeal Panel or the Appeals Tribunal.

The Appeals Selection Panel shall consist of one Past President, who shall be the Panel's Chairman, the President and a Vice-President.

An appeal against a decision of the Disciplinary Board may be made on one of more of the following grounds:

1. Jurisdiction, i.e. whether the alleged improper conduct was within the scope of the provisions of the By-laws or the Rules of Professional Conduct;
2. Procedure, i.e. there was a serious breach of the procedure stipulated in the By-laws and Disciplinary Regulations;
3. Perversity, i.e. the decision was perverse in the light of the evidence;
4. Proportionality, i.e. the order of the Disciplinary Board was disproportionate to the gravity of the improper conduct of which the member was found guilty

Reasons must be stated for each ground of appeal. The scope of the appeal nor the grounds stated can be amended except with the consent of the Appeal Tribunal appointed to hear the appeal.

The Leave-to-Appeal Panel separately considers the reasons given for each stated ground for appeal, and each ground is judged on its own merit. Unless the Leave-to-Appeal Panel determines that the appeal is invalid, leave to appeal shall be granted if it is satisfied that there is an arguable case on one or more of the grounds set out.

The member will be notified of the decision of the Leave-to-Appeal Panel to grant or refuse leave to appeal as soon as practicable. If the Leave-to-Appeal Panel decides that an appeal is invalid, or that leave

to appeal should be refused, it will give the Appellant reasons for its decision. The decision of the Leave-to-Appeal Panel is final and there is no right of appeal against a decision of the Leave-to-Appeal Panel.

The Appeals Tribunal shall only consider arguments in support of the grounds admitted for the appeal by the Leave-to-Appeal Panel. No other evidence or arguments shall be considered.

An appeal shall be in the form of a review only and not a rehearing. Oral hearings of the Appeals Tribunal shall follow the same principles and procedures as the Disciplinary Board, but with no witnesses being called. The Appellant may represent himself/herself or the arguments to be presented on his/her behalf may be presented by another person or by the Appellant's legal representative.

The decision of the Appeals Tribunal shall in all cases be published.

The Appeal Tribunal has the power to revoke, vary or uphold the decision of the Disciplinary Board. The Appeal Tribunal's decision is final and conclusive. There is no right of appeal by the person who made the complaint against the member.