

Disciplinary Procedures for Breaches of the Code of Ethics

February 2023

Enforcement Procedures and Disciplinary Action for Breaches of the Code of Ethics (2023)

The Institution of Engineers of Ireland (operating as Engineers Ireland) is the professional body for engineers in Ireland. Established in 1835, it was recognised by Royal Charter in 1877 and by Acts of the Oireachtas in 1960 and 1969.

Membership of The Institution of Engineers of Ireland (Engineers Ireland) gives rights and privileges to members. In return, members must meet the standards of ethics and conduct set out in its Code of Ethics. The Code applies to all Engineers Ireland members, irrespective of their grade, the professional role they fulfil, or the country or countries in which they practise. It is the duty of each member to comply with the provisions of the Code.

Professions in general promote and enforce codes of ethical behaviour through their professional organisations.

In the event that a member is alleged to have breached the Code of Ethics, they may be subject to disciplinary action. This document outlines the procedure for considering complaints of alleged breaches of the Code, the sanctions available, and the appeal process for members.

These procedures replace the procedure set out in the Code of Ethics (2018), Section 4, approved by Council in December 2017. These procedures are effective from 1st February 2023.

1. Definitions

- 1.1. 'Professional misconduct' means conduct which, in the opinion of the Panel or the Appeal Board, as the case may be, constitutes conduct which is a breach of the Code of Ethics or, as the case may be, of the Code of Ethics in force at the time the said conduct occurred.

- 1.2. 'The Ethics Board' means the Ethics and Disciplinary Board of Engineers Ireland. It is a standing committee of Council, established under Section 18.2 of the Bye Laws (2012).

- 1.3. 'Panel' means an Investigative and Disciplinary Panel appointed by the Ethics Board, as referred to in **4.1** and **4.2** below.
- 1.4. 'The Institution' means The Institution of Engineers of Ireland (operating as Engineers Ireland).
- 1.5. 'The Complainant' means a person who has made a complaint of professional misconduct against a member to Engineers Ireland or, in the case of a complaint made by the Ethics Board, means the Ethics Board itself.
- 1.6. 'The Member Concerned' means a member of Engineers Ireland against whom a complaint has been made.
- 1.7. 'Appeal Board' means the three-person Appeal Board established by the Council, under Section 18.3 of the Bye Laws (2012), to consider appeals and referred to in **5** below.
- 1.8. 'Suspension' means removal from Engineers Ireland's Register of Members and Register of Holders of Professional Titles and loss of all membership privileges for the period defined.
- 1.9. 'Exclusion' means removal from Engineers Ireland's Register of Members and Register of Holders of Professional Titles and loss of all membership privileges.
- 1.10. 'Review Group' means a group of three members of the Ethics and Disciplinary Board who will review a decision of the Registrar referred to at **3.5 to 3.7** below. Such members will not form part of an Investigative and Disciplinary Panel established to consider the complaint.

2. Confidentiality

- 2.1. All proceedings and deliberations of the Ethics Board, a Panel and the Appeal Board shall be in private and, subject to the provisions of this Code, shall be confidential to the

Ethics Board, the Panel and the Appeal Board. Members shall, as a matter of professional obligation, maintain such confidentiality. Complainants shall also be requested to maintain such confidentiality.

2.2. In the event that a member is to be suspended or excluded from membership of Engineers Ireland following the disciplinary process:

a) Such suspension shall be published on the Engineers Ireland website for the duration of the suspension. The member's name will not appear on the Register of Members for the duration of the suspension.

b) Such exclusion shall be published on the Engineers Ireland website.

3. Making a Complaint and Initial Consideration

3.1. A complaint of alleged professional misconduct against a Member Concerned may be made by any person including the Ethics Board or a member of staff of Engineers Ireland, by submitting the complaint to the Registrar for consideration of whether the complaint warrants referral to the Ethics Board for the appointment of a Panel.

3.2. A complaint shall be submitted using Engineers Ireland's Complaint Form. It shall include the name of the Complainant, and shall contain a description of the matter complained of and details of the circumstances giving rise to the complaint.

3.3. When a complaint has been made, the Registrar will review the complaint and decide based on the documentation and information submitted as part of the complaint, whether the complaint warrants referral to the Ethics Board for the appointment of a Panel. The Registrar may decide that the complaint does not warrant referral to the Ethics Board for the appointment of a Panel in the following circumstances:

i) Where the complaint is not in writing or typed and does not contain the name of the Complainant.

ii) Where the complaint is made for a purpose outside the scope of Engineers Ireland's disciplinary process.

iii) Where the complaint is trivial or minor in nature, vexatious, made in bad faith or is an abuse of process.

3.4. If, having considered a complaint of alleged professional misconduct, the Registrar is of the view that the complaint warrants referral to the Ethics Board for the appointment of a Panel, the Registrar will refer the complaint to the Ethics Board. The Ethics Board shall establish a Panel whose function shall be to investigate and adjudicate upon the complaint.

3.5. If, having considered a complaint of alleged professional misconduct, the Registrar is of the view that the complaint does not warrant referral to the Ethics Board for the appointment of a Panel, the Complainant will be informed of the decision. The Complainant will be given an opportunity to request a review of the Registrar's decision by the Review Group. The Complainant must submit their request for a review of the Registrar's decision within 14 calendar days of the date the decision is sent. The matter is then considered by the Review Group who will decide whether the complaint warrants referral to the Ethics Board for the appointment of a Panel.

3.6. Where the Review Group is of the opinion that the complaint warrants referral to the Ethics Board for the appointment of a Panel, the complaint is referred to the Ethics Board.

3.7. Where the Review Group is of the opinion that the complaint does not warrant referral to the Ethics Board for the appointment of a Panel, the Complainant is informed of the decision. The decision of the Review Group is final.

3.8. The function of the Registrar may be assigned to another member of staff of Engineers Ireland from time to time.

4. Investigation and Adjudication Process

Appointment and Constituency of the Panel

- 4.1. Complaints of alleged professional misconduct shall be investigated and adjudicated upon by a Panel appointed by the Ethics Board. A Panel, at the discretion of the Ethics Board, shall comprise three members of the Ethics Board. All Panels will be appointed by the Chair of the Ethics Board.
- 4.2. The Chair of the Ethics Board shall, on the appointment of a Panel, select one of the persons nominated to the Panel to act as Chair of the Panel.
- 4.3. In the event that a complaint of alleged professional misconduct against a member is in respect of conduct which predated the coming into force of this Code of Ethics, the relevant Code of Ethics shall be the one in force at the time of the alleged misconduct.

Procedure

- 4.4. The Panel shall, within 14 calendar days of its establishment, notify the Member Concerned in writing of the fact that a complaint has been received and of the fact that a Panel has been established to investigate and to adjudicate upon the complaint. The Panel shall, with such notification, provide the Member Concerned with a copy of the complaint and shall inform such member of these procedures.
- 4.5. The Member Concerned may, within 14 calendar days of the receipt of a notification of a complaint, or within such further period as may be permitted by the Panel, submit to the Panel a statement in writing in response to the complaint.
- 4.6. Upon receipt from a Member Concerned of their response in writing to the complaint, the Panel shall send a copy thereof to the Complainant. The Complainant shall be invited to make a written response within 14 calendar days of receipt of the Member Concerned's response by the Complainant, or within such further period as may be permitted by the Panel.

- 4.7. In the event that the Member Concerned does not submit a statement in writing in response to the complaint within 14 calendar days from the date of receipt of the complaint, or within such extended period as may have been permitted by the Panel, the Panel may proceed to adjudicate upon the complaint in the absence of such a statement.
- 4.8. The Panel may do one or more of the following:
- a) Request any person to provide information.
 - b) Request any person to attend before it to give evidence.
 - c) Request any person to make available to it any documents or other evidence which it wishes to consider.
 - d) Set time limits for the provision of any information or documents to the Panel by the Complainant or the Member Concerned.
 - e) Hold an oral hearing. It is at the discretion of the Panel to decide whether an oral hearing is necessary. The Panel may seek the views of the Complainant and the Member Concerned in this regard.
 - f) Appoint any person to present evidence to the Panel or to assist the Panel in any way it considers necessary for the proper discharge of its functions.
 - g) Seek expert or other assistance, where the Panel believes it is necessary.
 - h) Decide what procedure it will adopt in respect of any matter for which no procedure is specifically provided for in these procedures.

Adjudication

- 4.9. The Panel shall adjudicate upon the complaint fairly and impartially, and in accordance with the requirements of natural and constitutional justice. In particular, the Panel shall:
- a) Provide the Member Concerned and the Complainant with an opportunity to be heard by the Panel, either in writing or at an oral hearing should the Panel deem that an oral hearing is warranted.
 - b) Where an oral hearing takes place, facilitate questions being asked of both parties, including any witnesses, where necessary.
 - c) Endeavour to notify the Member Concerned and the Complainant in writing of its decision within seven calendar days from the date of the making of the decision.

- d) In the event that the Panel decides that the Member Concerned is guilty of professional misconduct, inform the Member Concerned of his or her right to appeal, and of the appeal process set out in these procedures.
- e) The Panel shall comply with any general guidelines which may have been issued by the Ethics Board in respect of the conduct of proceedings by Panels.

4.10. All decisions of the Panel shall be by simple majority vote. The Panel shall normally reach a decision within two months of receipt of all written and oral submissions.

4.11. In the event that the Member Concerned has been the subject of a previous proven complaint, the Registrar shall be entitled to inform the Panel of the previous complaint, the finding, and outcome including any sanction imposed, and refer the Panel to the relevant complaint documentation. This is to assist the Panel in deciding on the appropriate sanction or outcome. The Registrar will only inform the Panel of the previous finding and outcome after the Panel has decided whether the Member Concerned has been guilty of professional misconduct.

4.12. In the event that the Panel decides that the Member Concerned has been guilty of professional misconduct it may: -

- a) Decide not to seek an undertaking or impose a sanction.
- b) Issue a letter informing the Member Concerned of the contravention(s) and requiring him/her to provide an undertaking in writing to Engineers Ireland to desist from and/or not repeat the conduct which constituted the professional misconduct.
- c) Issue a letter informing the Member Concerned of the contravention(s) and reprimanding him/her.
- d) Decide that the Member Concerned be required to complete a specified number of CPD hours on the topic related to the issues leading to the professional misconduct, and provide evidence to Engineers Ireland once the CPD hours are completed.
- e) Recommend to the Ethics Board that the Member Concerned be suspended from membership of Engineers Ireland for a specified period.

- f) Recommend to the Ethics Board that the Member Concerned be excluded from Membership of Engineers Ireland.

4.13. The Panel may choose a combination of the above, as deemed appropriate by the Panel.

4.14. The Panel shall inform the Member Concerned, the Complainant and the Director General of Engineers Ireland in writing of its findings, the reasons for its findings and the sanction it has decided to impose or to recommend to the Ethics Board. The Panel will endeavour to do this within seven calendar days from the date when such decision shall have been made.

4.15. At the same time, the Panel shall inform the Member Concerned of their right to appeal in respect of the decision of the Panel, and of the provisions of these procedures with regard to appeals.

4.16. Save for where an appeal is submitted by the Member Concerned, the Panel shall inform the Ethics Board of its findings, the sanction it has decided to impose or to recommend, and its reasons. This will be communicated to the Ethics Board at a meeting of the Board.

4.17. In the event that the Panel has recommended that the Member Concerned be suspended or excluded from membership, and where the Member Concerned has not appealed this decision, the Ethics Board will consider whether to adopt the recommendation of the Panel. The Ethics Board is entitled to either adopt the recommendation of the Panel or to select an alternative sanction, including any combination of sanction that it deems appropriate. All decisions of the Ethics Board shall be by simple majority vote of the members present.

4.18. The decisions of the Ethics Board shall be issued in writing to the Member Concerned, the Complainant, the Panel and the Director General of the Institution, within seven calendar days from the date of the decision.

5. The Appeals Process

- 5.1. A Member Concerned who is aggrieved at the decision of a Panel shall be entitled to appeal to the Appeal Board in respect of such decision.
- 5.2. An appeal shall be lodged by submitting an Appeal Form to the Appeal Board within 28 calendar days of the receipt of the decision of the Panel.
- 5.3. The Member Concerned may appeal the finding(s) and/or sanction decided on or recommended by the Panel on one or more of the following grounds:
 - i) The finding(s) was materially wrong in fact;
 - ii) The sanction decided on or recommended was excessive;
 - iii) The finding(s) and/or sanction decided on or recommended should be set aside because of a serious procedural or other irregularity in the proceedings before the Panel.
- 5.4. The Appeal Form shall be provided to the Complainant who shall be entitled to make submissions in response. The Appeal Board shall have full access to the documentation considered by the Panel in the first instance.
- 5.5. The Appeal Board shall consider the evidence presented to the Panel by the Complainant and the Member Concerned in the first instance, together with the appeal and any further submissions made. The Member Concerned and Complainant will not be entitled to submit additional evidence or documentation unless specifically sought by the Appeal Board. In addition, the Appeal Board may, at their discretion, decide to hold an oral hearing, and may seek expert or other assistance where necessary.
- 5.6. A copy of the appeal shall be forwarded for information to the Ethics Board, the Director General, and the Panel.
- 5.7. The Appeal Board may: -
 - i) Uphold the decision of the Panel in whole or in part.
 - ii) Rescind the decision of the Panel in whole or in part.

- iii) Vary the decision in whole or in part.
- iv) In the event of a serious procedural or other irregularity in the proceedings before the Panel, rescind the decision in whole and, where appropriate, direct that a new Panel be appointed to give fresh consideration to the complaint.

In relation to iii) above, for the avoidance of doubt, the Appeal Board may vary the sanction decided on or recommended and may impose any sanction it deems appropriate.

- 5.8. In hearing an appeal, the Appeal Board shall, for the purposes of its functions, have the same powers as are vested in the Panel at 4.8 above, save that as set out at 5.5 above, the Member Concerned and Complainant will not be entitled to submit additional evidence or documentation unless specifically sought by the Appeal Board. In addition, the Appeal Board has no obligation to comply with any general guidelines which may have been issued by the Ethics Board in respect of the conduct of proceedings by Panels.
- 5.9. Decisions of the Appeal Board shall be by simple majority. The Appeal Board's decision is final.
- 5.10. The Appeal Board shall normally reach a decision within two months of receipt of all submissions. The Appeal Board shall endeavour to issue its decision on an appeal to the Appellant, the Respondent, the Panel and the Director General of Engineers Ireland within seven calendar days from the date of the decision.
- 5.11. The Appeal Board shall inform the Ethics Board of its decision at the next meeting of the Board. This is for information purposes only, and the Ethics Board cannot vary the decision of the Appeal Board. This includes any decision by the Appeal Board to suspend or expel the Member Concerned.

6. The Role of the Ethics Board where there is no appeal

- 6.1. Where no appeal is made, and where a recommendation has been made by the Panel that the Member Concerned be suspended or excluded from membership of the Institution, the Ethics Board will consider this recommendation, and may decide to adopt or vary this recommendation.
- 6.2. Any member of the Ethics Board who shall have been a member of the Panel which made a recommendation to the Ethics Board that the Member Concerned be suspended or excluded from membership of the Institution shall not participate in any deliberations or decisions of the Ethics Board at which such recommendations are being discussed or decided upon.

7. The Imposition of Sanction

- 7.1. In the event that the Ethics Board or Appeal Board decides to exclude the Member Concerned from membership, the exclusion shall take effect from the date of the decision.
- 7.2. In the event that the Ethics Board or Appeal Board decides to suspend the Member Concerned from membership, the suspension shall commence on the date of the decision. The Member Concerned may not use any Engineers Ireland-appointed Professional Title during that suspension period.
- 7.3. In the event that the Member Concerned is required to complete a specified number of CPD hours on the topic related to the issues leading to the professional misconduct, the Member Concerned shall complete the required CPD hours within 12 months from the date of the decision of the Panel, or within such extended time as the Ethics Board may at its discretion allow if an application for an extension of time is submitted by the Member Concerned.
- 7.4. If the Member Concerned fails or refuses to complete the CPD hours, as is required, within the time prescribed or within such extended time as the Ethics Board may at its discretion allow, the Ethics Board shall, at its discretion either: -

- a) Suspend the Member Concerned from membership of Engineers Ireland for a specified period, which may be until such time as the CPD hours have been completed,
or
- b) Exclude the Member Concerned from membership of Engineers Ireland.

7.5. In the event that the Member Concerned is required to provide an undertaking in writing, the Member Concerned shall provide such undertaking in such terms as may be required within 14 calendar days, or within such extended time as the Panel may at its discretion allow. This is from the date of receipt by the Member Concerned of notification from the Director General of Engineers Ireland that such an undertaking is required.

7.6. If the Member Concerned fails or refuses to give such undertaking, as is required, within the time prescribed, or within such extended time as the Panel may, at its discretion allow, the matter shall be referred to the Ethics Board. The Ethics Board shall, at its discretion, either: -

- a) Suspend the Member Concerned from membership of Engineers Ireland until such time as the undertaking has been given,
or
- b) Exclude the Member Concerned from Membership of Engineers Ireland.

8. General

8.1. Non-compliance with these procedures shall not render the proceedings void, unless so directed by the Panel, Appeal Board or Ethics Board, as appropriate.

8.2. At all times, efforts will be made to comply with fair procedures.

8.3. These procedures may be amended by the Council from time to time.



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