

# Chartered Institution of Highways & Transportation

## Disciplinary Procedure

### 1. Professional Conduct Panel ('PCP')

#### 1.1 Terms of reference

- a. To investigate
  - any allegation relating to the professional conduct of a member, either made by a complainant against a member or which otherwise comes to the attention of the Institution;
  - any criminal conviction or bankruptcy of a member that may result in a breach of the Code of Professional Conduct;
  - any false representation by a member that may come to the attention of the Institution; and
  - any adverse finding by another organisation concerning the conduct of a member.
- b. To investigate any misrepresentation of membership of the Institution, and any misuse by a member of the respective titles 'Chartered Engineer', 'Incorporated Engineer', 'Engineering Technician', 'Transport Planning Professional', or Member or Fellow of the Society of Road Safety Auditors (SoRSA).
- c. To act on the results of the investigation on behalf of the Institution.

In cases where a formal investigation is already being conducted by, for example, a Local Government Ombudsman, the Institution will suspend its own investigation until after the other investigation has been concluded. The reasons for this are that:

- a remedy may be found that makes further action by the Institution unnecessary;
- the outcome of the proceedings may be relevant to the complaint and would therefore form part of the evidence to be considered by the Institution
- so as not to prejudice the outcome of any other proceedings; and that
- the CIHT disciplinary procedure should not be regarded as a means of extracting evidence for use in other formal proceedings

#### 1.2 Constitution

- a. The Professional Conduct Panel (PCP) shall comprise
  - a Past President to act as Chairman;
  - at least two and not more than three other members of the Institution
  - an independent lay-person
  - if required, up to three other persons co-opted by the PCP.

- b. Membership of the PCP shall be personal and may not be delegated to another.
- c. The quorum shall be three members (excluding co-opted persons) of the Panel.
- d. The PCP may appoint a legal adviser, who shall not be a member of the PCP and who shall have no vote.

#### **1.4 Time Limit**

The PCP will not investigate a complaint relating to the conduct of a member which is alleged to have occurred more than two years prior to the date of the complaint, unless there are exceptional circumstances to justify an investigation.

#### **1.3 Powers**

Following an investigation, the PCP may

- a. decide that there is no case to answer; or
- b. decide that there is a case to answer, but that the conduct in question is not sufficiently serious to warrant disciplinary action, in which case the PCP may issue a formal warning to the member in such terms as it deems fit, which may include a requirement to give an undertaking in respect of future conduct; or
- c. decide that there is a case to answer, and that the conduct in question is sufficiently serious to consider disciplinary action, which may include
  - i) Reprimanding the member in such terms as it deems fit;
  - ii) Suspending the member from membership of the Institution for such period as it may determine;
  - iii) Permanently expelling the member from the Institution.

#### **1.4 No Entitlement to Resign**

Once a member has been notified that an allegation has been made, or that the member's criminal conviction, bankruptcy or disciplinary finding against them by another organisation is to be investigated by the PCP, the member shall not be entitled to resign, and shall not be removed from membership of the Institution until all proceedings under these Regulations have been concluded, and any such proceedings may be continued notwithstanding the member's attempted or purported resignation

### **2. The Investigation Procedure**

- a. The complainant (if there is one) shall make the complaint in written form, using the CIHT complaint template.
- b. In cases of false representation, criminal conviction or bankruptcy, or an adverse finding by another organisation, in the absence of a complainant, the secretariat of the Institution shall prepare a report detailing the matter at issue. The PCP shall satisfy itself as to the *prima facie* accuracy of the allegation.
- c. If the PCP decides to proceed with the investigation, the complainant's submission, or the report, shall be sent by the Institution to the member who

is the subject of the complaint, who shall be required to respond in writing as soon as reasonably practicable after the submission or report has been received and in any event within 20 working days of receipt.

- d. The member's response shall be disclosed to the complainant. The complainant may reply within 20 working days but shall not be entitled to raise any new allegations. The complainant's reply (if any) shall be passed to the member.
- e. All written submissions shall be provided to all the members of the PCP.
- f. If the member fails to respond to the allegation within 20 working days, the PCP may proceed without further reference to the member.
- g. Neither the member nor the complainant shall appear before the PCP in person at the investigation stage.
- h. The PCP shall meet within 10 working days of the closing date for submissions.
- i. The PCP shall confine itself to the consideration of the written evidence.
- j. Decisions of the PCP shall be based on an assessment of the balance of probabilities, and shall be made by a simple majority. No member of the PCP present shall be allowed to abstain. If there is no majority decision, the Chairman shall have the casting vote.
- k. If it decides that there is a case to answer, the PCP, when considering the appropriate course of action, shall be entitled to take into account any information concerning the previous conduct of the member.
- l. If the PCP decides to consider disciplinary action, it shall inform the member and the complainant of its decision within 5 working days of the meeting at which the decision was made. If a hearing is to be held, the member and complainant will be notified of the date of the hearing and the deadline of submission of further statements.
- m. The PCP may, at its sole discretion, give reasons for its decision to the complainant and the member.
- n. The PCP shall not have power to review or set aside any previous decision it has made.
- o. Neither the complainant nor the member has the right to appeal against the outcome of the PCP's investigation.

### **3. The Disciplinary Procedure**

- 3.1** If, following its investigation, the PCP decides that there is a case to answer:
  - a. The PCP shall set a date for a hearing giving the complainant (if any) and the member not less than 25 working days notice.
  - b. If the member is a registrant of the Engineering Council, the member shall be informed of their right of appeal to the Engineering Council if, as a result of the investigation, the decision of the PCP is to expel him or her permanently from membership of CIHT.
  - c. The member shall be entitled to appear before the PCP if he or she wishes, and the PCP shall have power to require the member to attend before it, if it so wishes.
  - d. The member may, at their own cost, be legally or otherwise represented.

- e. A member intending to appear before the PCP hearing, and/or to be represented, shall give not less than 15 working days notice of that intention.
- f. The member may call witnesses, or provide written statements from any witnesses, in support of his or her case.
- g. The member shall submit a written statement of their own evidence, and a written statement of the evidence of any other witness on which the member relies, to the PCP not less than 15 working days before the hearing.
- h. The PCP may invite the complainant to attend the hearing or to provide a written statement in support of the complaint.
- i. Any written statement provided to the PCP by, or on behalf of, either party shall be sent to the other party not less than 10 working days before the hearing.
- j. The hearing shall normally be held in London (unless otherwise determined by the Chairman) and shall be in private (unless otherwise determined by the Chairman).
- k. The hearing shall be minuted or recorded by electronic or other means as the PCP shall determine.
- l. The procedure shall ordinarily be as follows:
  - the Chairman shall open the hearing and invite those present to identify themselves. The Chairman shall state that the hearing will be recorded;
  - the Chairman shall read out a summary of the complaint and ask whether the member admits all or any part of it;
  - if the member admits all of the complaint, the Chairman shall invite the member or their representative to make a statement to the PCP and the Panel shall then proceed in accordance with paragraph 3.2 below; and
  - if the member does not admit the complaint or admits only part of it, the PCP shall then proceed in accordance with paragraph 3.3 below.
- m. If the complainant, having been invited to attend the hearing, does not attend, the PCP shall be entitled to proceed without further reference to the complainant.

### **3.2 Procedure if the member admits all of the complaint**

- a. The PCP shall withdraw to consider its decision and its withdrawal shall conclude the hearing.
- b. In considering a sanction, the PCP shall take into account any previous complaints, and any reports of a criminal conviction, bankruptcy, false representation or adverse finding by another organisation concerning the conduct of the member that have been upheld, and any sanctions or formal warnings that have previously been imposed.
- c. The decision of the PCP shall be made by a vote. The courses of action in paragraph 1.3 a and b shall require a majority decision on the balance of probabilities, but the courses of action in paragraph 1.3 c shall require a unanimous decision that the matter is beyond reasonable doubt. No member of the PCP may abstain.

### **3.3 Procedure if the member does not admit all of the complaint**

- a. The process shall be inquisitorial.
- b. If the complainant is present, he or she will be invited to put his or her case to the panel.
- c. If the member is present, he or she (or his representative) will be invited to make an opening statement to the panel summarising his or her case.
- d. If the member relies on evidence contained in witness statements alone, the member or their representative shall identify the witness and the relevant written statement to the PCP during their opening statement.
- e. Either the member or their representative may then put questions to the complainant (if any) relevant to the complaint.
- f. After the member or their representative has put questions to the complainant (if any), the PCP may put additional questions to the complainant (if any).
- g. The Chairman shall then ask the member or their representative if they wish to call any witnesses. If any witnesses are called on behalf of the member, each shall be questioned in turn, first by the member or their representative and then by the complainant (if any) and then by the PCP.
- h. The member or their representative shall be entitled to ask further questions of the witnesses called by the member, but such questions shall be strictly limited to any matter arising out of questions put by the complainant or the PCP.
- i. The members of the PCP shall be entitled to ask any party or witness any question relevant to the complaint at any time during the course of the hearing.
- j. The Chairman shall ask the member or their representative to make a closing statement to the PCP.
- k. In the absence of oral evidence from a complainant, a member or any witness, as the case may be, the PCP shall be entitled to place such weight as it deems appropriate on the documentary evidence including any written statement of evidence.
- l. If the particular circumstances of the case reasonably require, the Chairman shall be entitled to vary the procedure of the PCP, and adjourn the hearing at any time.
- m. The PCP shall withdraw to consider its decision and its withdrawal shall conclude the hearing.
- n. In the event of the complaint being upheld, in considering the sanction, the PCP shall take into account any previous complaints, and any previous reports of a criminal conviction, bankruptcy, false representation or adverse finding by another organisation concerning the conduct of the member that have been upheld, and any sanctions or formal warnings that have previously been imposed by the Institution.
- o. The decision of the PCP shall be made by a vote. The courses of action in paragraph 1.3 a and b shall require a majority decision on the balance of probabilities, but the courses of action in paragraph 1.3 c shall require a unanimous decision that the matter is beyond reasonable doubt. No member of the PCP may abstain.

### **3.4 Action after the hearing**

- a. The PCP shall send by recorded delivery within 7 working days of the hearing to the member and the complainant (if any) its decision in writing and, at its sole discretion, may give reasons for the decision.
- b. If the member is an Engineering Council registrant and the decision is to expel the member from membership of the Institution, he or she will be informed of his or her right of appeal to the Engineering Council.
- c. The PCP shall not have power to review or set aside any previous decision it has made.

### **3.5 Publication of the decision**

The decision of the PCP shall be reported to the Board of Trustees and shall be published in Transportation Professional. In the case of suspension or permanent expulsion, the name of the member shall be included, and, in the case of an Engineering Council registrant, the Chief Executive shall inform the Engineering Council, but no announcement shall be published until after the period for lodging an appeal has passed or, if an appeal is lodged, until after the completion of the appeal process.

## **4. Appeals**

### **4.1 Entitlement and arrangements for appeal**

- a. The member shall be entitled within 20 working days of receipt of the PCP's decision to lodge an appeal against the decision of the PCP.
- b. Members may appeal on the following grounds:
  - that the defined process for considering a complaint has not been followed, or has been in some way flawed;
  - that the conclusion of the PCP is perverse; or
  - that new information, not available to the PCP at the initial hearing, would be likely to change the conclusion of meeting.
- c. Any such appeal shall be by written notice sent by recorded delivery to the Chief Executive of the Institution, and shall specify the grounds of appeal.
- d. The Chief Executive will arrange for an Appeals Panel to be established.

### **4.2 Appeals Panel: Terms of reference**

To consider and adjudicate upon an appeal against the decision of the Professional Conduct Panel.

### **4.3 Constitution and administration**

- a. The Appeals Panel shall comprise three persons; the Chairman shall be the President for the time being of the Institution who will sit together with one of the Vice Presidents of the Institution and one lay person.
- b. The President and the Vice President shall not have any prior knowledge of the complaint.

- c. In the event that the President has been involved at a previous stage of the procedure, the immediate Past President shall chair the Appeals Panel
- d. The quorum shall be the full Appeals Panel.
- e. At the discretion of the Chairman, the Appeals Panel may sit with a legal adviser.
- f. The adviser shall not be a member of the Appeals Panel and shall have no vote.
- g. The appeal shall be conducted in accordance with the Procedures of the Professional Conduct Panel set out above.
- h. The member shall be bound by the decision of the Appeals Panel which shall have heard the appeal.
- i. The Chief Executive shall (in the case of a registrant) inform the Engineering Council of the decision of the Appeals Panel.

#### **4.4 Powers**

The Appeals Panel may decide that there is no case to answer by the member or, if the complaint or report is admitted or upheld, it may take any one or more of the following courses of action:

- a. confirm that decision of the PCP; or
- b. rescind the decision of the PCP; or
- c. substitute the action of the PCP with an alternative sanction.

#### **4.5 Appeal Procedure**

- a. The appeal to be sent to the Appeals Panel within 5 working days of receipt.
- b. The Appeals Panel to meet within 20 working days.
- c. The Panel's decision to be conveyed, in writing, to the member within 5 working days.
- d. If the Appeals Panel decides to uphold the decision of the PCP, the Engineering Council should be notified of the outcome, in cases where the member is an EngC registrant.

### **5. Suspension and Permanent Expulsion**

- 5.1 A member who is suspended from membership shall immediately return the membership certificate to the Institution. Such a member shall not, during the period of suspension, be entitled to exercise any of the rights or privileges of membership of the Institution or to use any title, designatory letters, logo or description implying membership, but shall remain in all other respects subject to the Charter and Bye Laws of the Institution and to the Code of Conduct.
- 5.2 A member who is permanently expelled from membership shall thereupon cease for all purposes to be a member of the Institution, and shall immediately return the membership certificate to the Institution, and shall not be entitled to use any title, designatory letters, logo or description implying membership.