

Chartered Institution of Highways & Transportation

Disciplinary Procedure

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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', 'Chartered 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 another organisation, for example, a Local Government Ombudsman, the police or where legal action is being taken, 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;
- that 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) is appointed by the Board of Trustees (or their nominated authority) and shall comprise

- a Past President to act as Chair;
- 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. No member of the PCP may also be a current member of CIHT Board of Trustees or Council.

d. The quorum shall be three members (excluding co-opted persons) of the Panel.

e. Where the member under investigation is an Engineering Council (EngC) registrant, at least one of the CIHT members of the PCP shall be a current EngC registrant.

f. The PCP may appoint a legal adviser, who shall not be a member of the PCP and who shall have no vote.

g. Panel members are required to declare any conflicts of interest prior to the commencement of proceedings.

1.3 Terms of disciplinary investigations

a. 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.

b. A complaint must be made in writing on the prescribed form and sent to the Institution. It must identify the person making the complaint, identify the member(s) against whom the complaint is made, specify the conduct that has led to the complaint and identify the paragraphs of the Code of Professional Conduct or any other Bye-Laws and /or Regulations which are alleged to have been breached. The CIHT secretariat or Panel can identify the alleged breaches under the Code in instances where no breaches or incorrect breaches have been identified in the complaint or alter the breaches under which the complaint should be heard if the evidence presented in relation to the complaint so suggests.

c. The CIHT will not normally accept complaints where the complainant wishes

to remain anonymous however in very exceptional circumstances, and where natural justice is not breached, this may be allowed. The decision as to whether to retain a complainant's anonymity will be made by the relevant CIHT Director. The CIHT cannot guarantee that anonymity is retained. Full details, with evidence of the need for anonymity should be submitted with the complaint in order that a reasoned decision can be made.

d. The CIHT may also decide to investigate information it receives in relation to a member's conduct. Such information shall be handled in accordance with the same procedures as though a formal complaint had been made.

e. Complaints made against more than one member will be dealt with as an individual complaint against each member. If during the course of an investigation information is received that another member may have been in breach of the Code then a separate investigation in accordance with these procedures will be instigated into the action of that member.

f. All correspondence / documentation submitted or generated by the CIHT and/or either party is to remain private and confidential throughout the disciplinary process and thereafter and is intended solely for the use and purpose of the disciplinary process. All data will be held in accordance with relevant data protection legislation and will be deleted in accordance with section 7 of these procedures.

g. Reasonable adjustments may be made to these procedures to take account of individual circumstances. Evidence will normally be requested where appropriate to support requests, however, each request will be considered on a case-by-case basis.

2. Stage 1: Assessment of Complaint and preliminary material

2.1 On receipt of a complaint, or information received, a CIHT Officer shall assess the matter and recommend whether a formal investigation into the matter(s) should be undertaken. Complaints which appear frivolous or vexatious, or where there is no obvious evidence presented to suggest a breach could have occurred, will not be investigated. This recommendation will be considered for approval by the relevant CIHT Director or nominated deputy.

2.2 The CIHT secretariat may seek additional information from the complainant or from the Member in order to facilitate a decision as to whether or not to undertake a formal investigation. There is, however, no formal obligation on the Member to respond at this stage.

2.3 In instances where the complaint is not to be investigated the reasons for this conclusion will be communicated to the complainant. Informal confidential advice may also be issued to the member or the complainant.

2.4 Within 5 working days of being informed of the decision not to proceed with an investigation, the complainant shall be entitled to request a further review of the

complaint. This review shall be undertaken by a person independent of the CIHT.

2.5 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 CIHT secretariat shall satisfy itself as to the prima facie accuracy of the allegation.

3. Investigation

3.1 No Entitlement to Resign

Once a member has been notified that an allegation has been made, or that a 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 procedures have been concluded, and any such proceedings may be continued notwithstanding the member's attempted or purported resignation or non-payment of fees or subscriptions.

3.2. The Investigation Procedure

3.2.1 If the decision is to proceed with an investigation, the complainant's submission, or the secretariat's report where there is no complainant, 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 21 days of receipt. Members are required to co-operate with any investigation undertaken.

3.2.2 The member's response shall be disclosed to the complainant. The complainant may reply within 14 days but shall not be entitled to raise any new allegations. The complainant's reply (if any) shall be passed to the member.

3.2.3 The member shall have 14 days to respond to the complainant's further comments, after which the exchange of documentation shall be concluded.

3.2.4 The CIHT may extend any period allowed for the submission of material, but this discretion will only be exercised in exceptional circumstances, for example serious illness, accident, absence/holiday or other compassionate grounds.

3.2.5 All submissions shall be in electronic format unless there are exceptional circumstances for the use of paper submissions. The nature of the evidence submitted is not restricted and can, for example, include video evidence.

3.2.6 All submissions will be provided to all the members of the PCP.

3.2.7 Neither the member nor the complainant shall appear before the PCP in person at this stage.

3.2.8 The PCP shall consider the complaint and responses at the first available meeting after the completion of the exchange of documentation which will normally be within one month of the closing date for submissions.

4. Decision on the complaint

4.1 The Panel will consider the submissions received during the investigation and shall determine one of the following on each element of a complaint:

- a. That there has been no breach of the Code of Professional Conduct and the complaint should be rejected;
- b. That there has on a balance of probability been a breach of the Code of Professional Conduct; or
- c. That the decision should be deferred eg for additional information or where a hold on proceedings is required to allow other investigations/processes to be completed.

4.2 The PCP shall confine itself to the consideration of the submissions and any other evidence obtained. Decisions of the PCP 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 Chair shall have the casting vote.

4.3 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.

4.4 If the PCP makes a determination under clause 4.1(b), the PCP will go on to determine the appropriate sanction. The PCP may take any one of the following actions on each element of a complaint:

Minor breach of the Code

- a. Issue no penalty, and provide informal advice to aid the Member in their professional practice, and may include a requirement to give an undertaking in respect of future conduct; or
- b. Issue a Formal Warning to the Member, which may include a requirement to give an undertaking in respect of future conduct; or

Major breach of the Code

- c. Reprimand the Member, making advisory recommendations where appropriate; or
- d. Suspend the Member from Membership of the CIHT for any period the Panel specifies; or
- e. Permanently expel the Member from the Institution forthwith or from such a date as specified by the Panel

4.5 The PCP shall confine itself to the consideration of the submissions and any other evidence obtained. Where a minor breach of the Code is found, decisions shall be made by a simple majority and based on an assessment of the balance of probabilities. If there is no majority decision, the Chair shall have the casting vote. Where a major breach of the Code is found, which relates to something beyond a lack of competence or where a loss of livelihood would result, the criminal standard of beyond reasonable doubt should be applied, and this must be decided unanimously. No member of the PCP present shall be allowed to abstain.

4.6 The CIHT secretariat shall inform the member and the complainant of the PCP's decision in a timely manner and normally within 21 days of the meeting at which the decision was made.

4.7 The PCP shall provide to the complainant and the member a general statement of the reasons for its decision.

4.8 The PCP shall not have power to review or set aside any previous decision it has made.

4.9 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 suspend or expel them permanently from membership of CIHT.

4.10 Where the decision of the PCP is that the Member is to be reprimanded, suspended or permanently expelled, it shall be reported to the Board of Trustees and shall be published in the Institution's member journal. 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 CIHT secretariat 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.

5. Rights to Appeal

5.1 Entitlement and arrangements for appeal

5.1.1 The member shall be entitled to lodge an appeal against the PCP's disciplinary decision within 20 working days of receipt of the outcome.

5.1.2 Appeals may be made on the following grounds:

- a. that the defined process for considering a complaint has not been followed, or has been in some way flawed;
- b. that the conclusion of the process conducted by the PCP is perverse; or

c. that new information, not available to the PCP during the proceedings, would be likely to change the conclusion.

5.1.3 Any such appeal shall be sent to the CIHT secretariat and shall specify the grounds of appeal and the CIHT secretariat will arrange for an Appeals Panel to be established.

5.2 Appeals Panel: Terms of reference

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

5.3 Constitution and administration

5.3.1 The Appeals Panel shall comprise three persons; the Chair shall be a Past President or Fellow of the Institution, who will sit with a member of the Institution and one lay person.

5.3.2 If the subject of the complaint is an EngC registrant, the Appeals Panel shall include at least one current EngC registrant, who may be co-opted as an additional member, should this be required.

5.3.3 The members of the Appeal Panel shall not have any prior knowledge of the complaint. The quorum shall be the full Appeals Panel and at the discretion of the Chair, the Appeals Panel may sit with a legal adviser., who shall not be a member of the Appeals Panel and shall have no vote.

5.3.3 The appeal shall be conducted in accordance with the Procedures set out in section 5.5 below.

5.3.4 The member shall be bound by the decision of the Appeals Panel which shall have heard the appeal.

5.3.5 The CIHT secretariat shall (in the case of a registrant) inform the Engineering Council of the decision of the Appeals Panel.

5.4 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 the decision of the PCP; or
- b. rescind the decision of the PCP; or
- c. substitute or vary the decision of the PCP which may include an alternative sanction.

5.5 Appeal Procedure

5.5.1 The Institution shall set a date for a hearing giving the complainant (if any) and the member not less than 4 weeks notice.

5.5.2 The member shall be entitled to appear before the Appeal Panel if they wish, and the Appeal Panel shall have the power to require the member to attend before it, if it so wishes.

5.5.3 The member may, at their own cost, be legally or otherwise represented.

5.5.4 A member intending to appear before the Appeal Panel hearing, and/or to be represented, shall give not less than three weeks notice of that intention.

5.5.5 The member may call witnesses, or provide written statements from any witnesses, in support of their case.

5.5.6 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 Appeal Panel not less than 3 weeks before the hearing.

5.5.7 The Appeal Panel may invite the complainant to attend the hearing or to provide a written statement in support of the complaint.

5.5.8 Any written statement provided to the Appeal Panel by, or on behalf of, either party shall be sent to the other party not less than 2 weeks before the hearing.

5.5.9 The hearing shall normally be held virtually or face to face in London (unless otherwise determined by the Chair) and shall be in private (unless otherwise determined by the Chair).

5.5.10 The hearing shall be minuted or recorded by electronic or other means as the Institution shall determine.

5.5.11 The procedure shall ordinarily be as follows:

- a. the Chair shall open the hearing and invite those present to identify themselves. The Chair shall state that the hearing will be recorded;
- b. the Chair shall read out a summary of the complaint, the decision of the PCP, and the grounds of appeal submitted by the member;
- c. If the complainant, having been invited to attend the hearing, does not attend, the Appeal Panel shall be entitled to proceed without further reference to the complainant.
- d. The process shall be inquisitorial.
- e. If the complainant is present, they (or their representative) will be invited to put their case to the panel.
- f. If the member is present, they (or their representative) will be invited to make an opening statement to the panel summarising their case.
- g. 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 Appeal Panel during their opening statement.

- h. Either the member or their representative may then put questions to the complainant (if any) relevant to the complaint.
- i. After the member or their representative has put questions to the complainant (if any), the Appeal Panel may put additional questions to the complainant (if any).
- j. The Chair 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 Appeal Panel.
- k. 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 Appeal Panel.
- l. The members of the Appeal Panel shall be entitled to ask any party or witness any question relevant to the complaint at any time during the course of the hearing.
- m. The Chair shall ask the member or their representative to make a closing statement.
- n. In the absence of oral evidence from a complainant, a member or any witness, as the case may be, the Appeal Panel shall be entitled to place such weight as it deems appropriate on the documentary evidence including any written statement of evidence.
- o. If the particular circumstances of the case reasonably require, the Chair shall be entitled to vary the procedure of the Appeal Panel, and adjourn the hearing at any time.
- p. The Appeal Panel shall withdraw to consider its decision and its withdrawal shall conclude the hearing.
- q. 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.
- r. The decision of the Appeal Panel shall be made by a vote. Where a minor breach of the Code is found, decisions shall be made by a simple majority and based on an assessment of the balance of probabilities. Where a major breach of the Code is found, which relates to something beyond a lack of competence or where a loss of livelihood would result, the criminal standard of beyond reasonable doubt should be applied, and this must be decided unanimously. No member of the Appeal Panel present shall be allowed to abstain. If there is no majority decision, the Chair shall have the casting vote.

5.6 Action after the hearing

5.6.1 The Appeal Panel shall convey its decision to the member and the complainant (if any) in writing and shall provide a general statement of the reasons for its decision. This will be provided in a timely manner and normally within 14 days of the hearing.

5.6.2 If the member is an Engineering Council registrant and the decision is to expel the member from membership of the Institution, they will be informed of their right of appeal to the Engineering Council.

5.6.3 If the Appeal Panel decides to uphold the decision of the PCP, the Engineering Council will be notified of the outcome in cases where the member is an EngC registrant, and the member will be notified of their right to appeal to the Engineering Council against the decision of the Appeal Panel.

6. Suspension and Permanent Expulsion

6.1 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 Professional Conduct. The period of suspension shall be specified by the PCP or Appeal Panel and shall not normally exceed 3 years after which time membership may be reinstated, subject to submission of a satisfactory CPD record covering the period of suspension. A competence assessment (professional review) shall not be required for re-registration with EngC unless recommended by the PCP for a specific reason related to a competence issue.

6.2 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.

7. Retention of records

7.1 Where the PCP finds that there is no case to answer, a record of proceedings shall not be maintained beyond the time limit for any appeal.

7.2 In cases where a member has received a warning or reprimand, or has been suspended or expelled, a record of proceedings shall be kept for six years.