

## **DISCIPLINARY REGULATIONS**

*Approved by the Board of Trustees on 6 February 2017.*

### **Improper Conduct**

- 1.1 In accordance with the IET's bye-laws, this procedure has been approved by the Board of Trustees to deal with any allegation of improper conduct which is made about its members.

### **Allegation**

- 2.1 Any allegation about a member's improper conduct should be dealt with under this procedure. The following would constitute an allegation of improper conduct for the purpose of this procedure:
  - 2.1.1 Any breach of the IET's Rules of Conduct;
  - 2.1.2 Personal status (eg bankruptcy, criminal offences unconnected with work);
- 2.2 Any complaint must be made:
  - 2.2.1 to the Complaints Secretary; and
  - 2.2.2 in writing (which includes electronic means).
- 2.3 The IET may consider a complaint of misconduct in connection with the member's professional capacity or in connection with a member generally.
- 2.4 The IET may investigate a concern of misconduct where no complaint is received (eg on the basis of a news item).
- 2.5 The IET will only consider complaints or concerns about its members.

### **Communications with Members**

- 3.1 Any communication with a member under these proceedings may be carried out using any of the contact details held by the IET for that member, including postal address and email and for the avoidance of doubt, the phrase "in writing" includes email or similar electronic communication.

### **Complaints Secretary**

- 4.1 Upon receiving a complaint, the Complaints Secretary must consider first whether they face a conflict of interest in dealing with the matter. If the Complaints Secretary does face a conflict of interest, the Complaints Secretary will need to consider whether to recuse themselves from dealing with that complaint. If the Complaints Secretary recuses themselves, the General Counsel or an individual appointed by the General Counsel will deal with that particular matter.
- 4.2 Upon receiving a complaint, the Complaints Secretary will:

- 4.2.1 Consider whether additional information or detail is needed from the complainant and if so may ask the complainant for further details or information;
- 4.2.2 Check that the complaint raises an issue against one or more members of the IET;
- 4.2.3 Consider whether the issue (and the complainant) should be referred to the police or any other agency, authority or body; and
- 4.2.4 Consider whether the issue should be addressed under another procedure of the IET.
- 4.3 If none of the matters in 4.2 apply, the Complaints Secretary will refer the complaint to the Preliminary Investigation Panel, providing brief details of the allegation.
- 4. If one of the matters set out in 4.2.2 to 4.2.4 apply and the Complaints Secretary does not refer the complaint to the Preliminary Investigation Panel, the Complaint Secretary will:
  - 4.4.1 Consider informing the complainant of the decision not to refer the case and the reasons for that; and
  - 4.4.2 Consider informing the member about the making of the complaint, the decision not to refer the case and the reasons for that.
- 4.5 There is no right of appeal from the decision of the Complaints Secretary not to refer a complaint.

### **Preliminary Investigation Panel**

- 5.1 The Preliminary Investigation Board shall be appointed by the Board of Trustees and shall comprise not less than 7 members. If none of the matters in 4.2 apply, the Complaints Secretary will convene a Preliminary Investigation Panel of 3 individuals drawn from the Preliminary Investigation Board appointed by the Board of Trustees.
- 5.2 On the basis of the information provided to it by the Complaints Secretary, the Preliminary Investigation Panel will decide that either:
  - 5.2.1 the complaint does not raise an issue of improper conduct worthy of further consideration; or
  - 5.2.2 the matter should be investigated and if so give any direction for the investigation to follow.
- 5.3 Where the Preliminary Investigation Panel decides that the complaint does not raise an issue of improper conduct, the Preliminary Investigation Panel shall:
  - 5.3.1 Consider informing the complainant of the decision not to investigate the matter and the reasons for that; and
  - 5.3.2 Consider informing the member about the making of the complaint, the decision not to investigate the matter and the reasons for that.
- 5.4 Where the Preliminary Investigation Panel decides that the complaint should be investigated, the Preliminary Investigation Panel will instruct the Complaints Secretary to refer the matter for Detailed Investigation (under 6 below) and should consider:
  - 5.4.1 Giving direction to the Investigator (see 6 below) as to the particular factual issues and matters that should be investigated and any individuals who should be interviewed;

- 5.4.2 Giving direction to the Investigator as to any expert evidence that should be obtained; and/or
- 5.4.3 Giving a direction to the Complaints Secretary that the member should be invited to accept a Summary Disposal (as set out at 7.1.3 below).

### **Detailed Investigation**

- 6.1 The Complaints Secretary will appoint an Investigator (who may be either a member of the IET or a member of the IET's staff) who will be independent of the Complaints Secretary. The Investigator may delegate elements of the investigation to others.
- 6.2 The Investigator may take any action appropriate to the investigation which will include the following:
  - 6.2.1 Informing the member of the factual allegation against him or her and inviting the member to comment;
  - 6.2.2 Informing the member of how it is said the facts amount to improper conduct and inviting the member to comment;
  - 6.2.3 Inviting the member to provide any evidence or the names of any witnesses in response to the allegation; and
  - 6.2.4 Following any directions received from the Preliminary Investigation Panel.
- 6.3 When speaking with any relevant witness the Investigator will take notes and a statement will be produced which is to be signed by the witness.
- 6.4 At any time the Investigator may seek guidance from the Preliminary Investigation Panel in relation to the scope of its investigation.
- 6.5 Following the investigation, the Investigator will provide to the Preliminary Investigation Panel a report setting out:
  - 6.5.1 The allegation made about the member;
  - 6.5.2 The steps taken by the Investigator in relation to the investigation;
  - 6.5.3 All the evidence that the Investigator has obtained;
  - 6.5.4 The issues that the Disciplinary Board is asked to consider;
  - 6.5.5 A recommendation for the next steps/action to be taken; and
  - 6.5.6 Any other information the Investigator considers is relevant to the decision the Preliminary Investigation Panel is being asked to consider.
- 6.6 A copy of the report will also be provided to the member under investigation at the same time as the Preliminary Investigation Panel.

### **Preliminary Investigation Panel 2**

- 7.1 Upon receipt of the report from the Investigator, the Preliminary Investigation Panel will decide what further action is taken from one of the following:
  - 7.1.1 No further action. This may be appropriate where:

- (i) the matter does not raise an issue of improper conduct;
  - (ii) The complaint has no merit;
  - (iii) The complaint is trivial;
  - (iv) There is no case to answer; and/or
  - (v) The complaint is vexatious.
- 7.1.2 Refer the matter to another body or procedure (for example employers' whistleblowing, police etc);
- 7.1.3 Propose a Summary Disposal; or
- 7.1.4 Refer the matter to a Disciplinary Panel.
- 7.2 If the Preliminary Investigation Panel decides that no further action should be taken, the Preliminary Investigation Panel shall inform the member and the complainant.
- 7.3 If the Preliminary Investigation Panel decides to propose a Summary Disposal, the process at 8 below above is to be followed and the Preliminary Investigation Panel should also provide the Complaints Secretary with the information at 7.4 below.
- 7.4 If the Preliminary Investigation Panel decides to refer the matter to a Disciplinary Panel, the Preliminary Investigation Panel will provide to the Complaints Secretary and the Investigator:
- 7.4.1 The factual issues giving rise to the allegation of improper conduct;
  - 7.4.2 How the factual issues amount to improper conduct (including the particular element of the code of conduct that has been breached); and
  - 7.4.3 How the improper conduct is alleged to impair the member's practice.

### **Summary Disposal [1]**

- 8.1 Summary Disposal is not a negotiation with the member. It is the means through which minor incidents of improper conduct can be addressed quickly and efficiently.
- 8.2 Where the Preliminary Investigation Panel directs that a Summary Disposal is to be offered it will provide the Complaints Secretary with the information at 8.3.1, 8.3.2 and 8.3.3 below.
- 8.3 The Complaints Secretary on behalf of the Preliminary Investigation Panel will write to the member setting out:
- 8.3.1 The factual matters that the member is invited to agree to;
  - 8.3.2 The improper conduct the member is invited to agree occurred;
  - 8.3.3 The sanction that the member is invited to accept;
  - 8.3.4 The date by which the member is to accept the Summary Disposal;
  - 8.3.5 How the member is to indicate their acceptance;

- 8.3.6 That if the member accepts the Summary Disposal, the improper conduct will be recorded with the sanction and a note that it was addressed by Summary Disposal.
- 8.3.7 That if the member does not agree by the date at 8.3.4, the matter will progress under the misconduct procedure (be referred to Detailed Investigation or Disciplinary Panel (as appropriate)).
- 8.4 If the member does not accept the offer within the specified timeframe, the Complaints Secretary will progress the Improper Conduct Procedure (either Detailed Investigation or Disciplinary Panel).
- 8.5 If the member accepts the Summary Disposal, the IET will record the outcome of the matter.

### **Disciplinary Panel**

- 9.1 The Complaints Secretary will convene a Disciplinary Panel of 5 individuals drawn from the Disciplinary Board established and appointed by the Board of Trustees. No person who was a member of the Preliminary Investigation Panel may be a member of the Disciplinary Panel. The Chair of the Disciplinary Board will identify a Chair of the Disciplinary Panel.
- 9.2 When convening the Disciplinary Panel the Complaints Secretary will inform proposed members of the Disciplinary Panel of the identity of the member and any relevant witnesses in order that the proposed members of the Disciplinary Panel can consider whether there are any conflicts of interest affecting their eligibility to be on the Disciplinary Panel.
- 9.3 Any meeting or hearing of the Disciplinary Panel may take place through any mode of simultaneous communication including telephone and/or video conferencing provided that each person at the meeting or hearing is able to hear every other person.
- 9.4 The Disciplinary Board shall be appointed by the Board of Trustees and shall comprise 15 members. Members of the Disciplinary Board shall hold office for 3 years, which term may be renewed for one further term of 3 years. The Board of Trustees shall appoint one member of the Disciplinary Board to act as Chair of the Disciplinary Board.
- 9.5 The Disciplinary Board may invite any member to attend a hearing of the Disciplinary Board. Any member declining such an invitation shall inform the Disciplinary Board in writing, stating the reasons for declining such invitation.

### **Formal Hearing**

- 10.1 Under instruction from the Preliminary Investigation Panel, the Complaints Secretary will write to the member setting out:
- 10.1.1 the allegation about the member;
- 10.1.2 the nature of the improper conduct and the basis for considering it is improper conduct;
- 10.1.3 the time and date on which the Disciplinary Panel will consider the matter;
- 10.1.4 the date by which the Investigator will send to the member the evidence and material that will be presented to the Disciplinary Panel and details of any witnesses that will be called;

- 10.1.5 that the member has the right to make written submissions and provide any evidence (including witnesses) in support of their case to the Disciplinary Panel and the date by which the submissions and evidence has to be provided to the Disciplinary Panel;
- 10.1.6 that the member has the right to be represented at any hearing but that the IET will not be responsible for any costs incurred by the member;
- 10.1.7 the identity the members of the Disciplinary Panel and a statement of how the member may object to the inclusion of a member of the Disciplinary Panel; and
- 10.1.8 a copy of these procedures.
- 10.2 The member may object to the inclusion of any individual on the Disciplinary Panel on the grounds of a conflict of interest, by providing the objection, with reasons, to the Complaints Secretary in writing. The Chair of the Disciplinary Panel will consider the member's objection and will either reject the objection (giving reasons) or will direct the Complaints Secretary to replace the individual objected to. If the member objects to the Chair, The Chair of the Disciplinary Board will consider the objection.
- 10.3 Prior to the date of the Formal Hearing, the Chair of the Disciplinary Panel may deal with any procedural issues that may arise.
- 10.4 The Preliminary Investigation Panel may appoint one of its own number or a solicitor or barrister to present the case against the member and should provide the Complaints Secretary with the name and details of the proposed representative. The member shall be allowed to conduct their own case, or to be represented by a solicitor or barrister, or any other person and should provide the Complaints Secretary with the name and details of the proposed representative (and whether the representative is legally qualified). That information will be provided to the other party and to the Chair of the Disciplinary Panel.
- 10.5 The Disciplinary Panel may appoint a legal assessor (who should be a solicitor or barrister with a current practising certificate) to provide it with advice in connection with the allegation and the hearing.
- 10.6 The Disciplinary Panel has discretion over the conduct of the Formal Hearing, but will include the following:
  - 10.6.1 The Complaints Secretary will appoint a person to keep of note of the hearing;
  - 10.6.2 The Investigator (or their delegate/representative) will present the evidence and information, including calling any live witnesses, that gives rise to the allegation;
  - 10.6.3 The member (or their delegate/representative) will present the evidence and information, including calling any live witnesses, in response to the allegation;
  - 10.6.4 Where the member has a delegate or representative, that person may not give evidence on the member's behalf;
  - 10.6.5 Both the Investigator and the member must be given the opportunity to ask questions of any witnesses called to give evidence. The Disciplinary Panel may ask questions of any witness;
  - 10.6.6 The Disciplinary Panel may admit any evidence it considers fair and relevant to the matter before it, whether or not such evidence would be admissible in a Court of Law;
  - 10.6.7 Any evidence that either the Investigator or the member wishes to rely on at the hearing must be disclosed the other party in sufficient time in advance of the hearing;

- 10.6.8 The Disciplinary Panel may at any time, exercise its discretion to adjourn the hearing;
- 10.6.9 Before the Disciplinary Panel retires to consider the matter, both the member and the Investigator (or their representatives) will have the opportunity to summarise their case to the Disciplinary Panel, with the member being given the opportunity to speak last; and
- 10.6.10 The Disciplinary Panel may retire with the note taker and any legal assessor but neither may take part in any decision making.

### **Decision**

- 11.1 Having heard from the Investigator and the member, the Disciplinary Panel is to make its decision. The Disciplinary Panel will determine the facts on the balance of probability, whether the member has engaged in improper conduct and if so, whether a sanction should be imposed and which sanction.
- 11.2 The Disciplinary Panel may give its decision on the day of the hearing or may adjourn the hearing to consider the issues.
- 11.3 As soon as practicable following the hearing the Disciplinary Panel will give its decision and reasons which will be communicated to the member and the Investigator in writing by the Complaints Secretary who will also inform the member of the right of appeal.
- 11.4 Where the suspension or expulsion of the member will lead to the termination of registration with the Engineering Council or other regulatory body, the Complaints Secretary must inform the member of that and must pass the relevant information to the regulatory body.

### **Sanctions**

- 12.1 The Disciplinary Panel may impose one or more of the following sanctions:
- 12.1.1 Provide guidance to the member which the member is to follow;
- 12.1.2 Issue a written warning to the member;
- 12.1.3 Require the member to attend training on specified matters within a specified period of time;
- 12.1.4 Admonish the member;
- 12.1.5 Require the member to apologise to another person in connection with the allegation;
- 12.1.6 Impose a period of suspension on the member; and/ or
- 12.1.7 Expel the member.
- 12.2 The Disciplinary Panel may suspend any sanction imposed upon condition of the member not engaging in further improper conduct for a specified period.

### **Failure to Comply**

- 13.1 Should the member fail to comply with the sanction imposed by the Disciplinary Panel, that would be an issue of improper conduct, the result of which could be a further, more severe sanction being imposed.

## **Published**

- 14.1 If a member is found guilty of improper conduct and the member is expelled or suspended from membership of the IET, the Disciplinary Board shall (unless it determines there are reasons not to do so), arrange for the decision to be published.
- 14.2 If a complaint of improper conduct is dismissed, the Disciplinary Board may, and at the request of the member shall, arrange for the decision to be published.

## **Appeal**

- 15.1 Appeals to a regulatory body must be made in accordance with that body's procedures.
- 15.2 Appeals to the IET must be made by the member within 20 English working days of the decision letter. The member may appeal either or both of the Disciplinary Panel's finding that the member engaged in improper conduct and the sanction imposed
- 15.3 To make an appeal, the member must send written notice of appeal to the Complaints Secretary setting out:
  - 15.3.1 The ground(s) of appeal;
  - 15.3.2 The reasons for the appeal;
  - 15.3. The matters relied upon in support of the appeal; and
  - 15.3.4 Why the decision is considered unfair.
- 15.4 Appeals can only be made on one or more of the following grounds:
  - 15.4.1 The decision is unjust (eg there was a serious procedural error or other irregularity that renders the decision unfair or unsafe);
  - 15.4.2 The decision is wrong (eg the it was not supported by the evidence or based on an error or misunderstanding); or
  - 15.4.3 Evidence, relevant to the case, has come to light which was not considered during the hearing and which could not have been reasonably produced at the hearing.
- 15.5 In the event of an appeal, the decision of the Disciplinary Panel will not be carried out until the appeals procedure is concluded.
- 15.6 The complainant has no right of appeal.

## **Consideration of an Appeal**

- 16.1 Upon receiving written notice of an appeal, the Complaints Secretary will refer the appeal to the President who will either:
  - 16.1.1 Summarily accept the appeal and refer the matter back to the Disciplinary Panel under 16.10 below; or
  - 16.1.2 Confirm that an Appeal Panel should be convened.
- 16.2 The Complaints Secretary will write to the member setting out the President's decision.
- 16.3 Where an Appeal Panel is to be convened the Complaints Secretary will convene it in accordance with 18 below. The Appeal Panel will have discretion (subject to 17.6



below) over the procedure to be followed and the Chair of the Appeal Panel may deal with any procedural issues that may arise.

- 16.4 The Complaints Secretary will write to the member setting out
  - 16.4.1 the time and date on which the Appeal Panel will consider the matter;
  - 16.4.2 the date by which any additional information that the member wants the Appeal Panel to consider must be received;
  - 16.4.3 that the member has the right to attend any Appeal Panel hearing and be represented at any hearing but that the IET will not be responsible for any costs incurred by the member;
  - 16.4.4 the identity the members of the Appeal Panel and a statement of how the member may object to the inclusion of a member of the Appeal Panel.
- 16.5 The member may object to the inclusion of any individual on the Appeal Panel by providing the objection, with reasons, to the Complaints Secretary in writing. The Chair of the Appeal Panel will consider the member's objection and will either reject the objection (giving reasons) or will direct the Complaints Secretary to replace the individual objected to. If the member objects to the Chair, the President will consider the objection.
- 16.6 The Appeal Panel procedure will include the following:
  - 16.6.1 The opportunity for the member or their representative to address the Appeal Panel;
  - 16.6.2 The opportunity for the Investigator or their representative to address the Appeal Panel; and
  - 16.6.3 The opportunity for the Appeal Panel to ask questions of the member and the Investigator.
- 16.7 The Appeal Panel's decision will be provided in writing and will include reasons. The decision and reasons will be conveyed to the member as soon as practicable following the decision being made.
- 16.8 In disposing of an appeal, the Appeal Panel may:
  - 16.8.1 dismiss the appeal; or
  - 16.8.2 allow the appeal in whole or in part.
- 16.9 If allowing any part of the appeal, the Appeal Panel must also quash that part of the decision appealed against and either:
  - 16.9.1 dismiss the complaint; or
  - 16.9.2 where allowing an appeal against a finding of improper conduct, refer the matter for fresh consideration by the Disciplinary Panel; or
  - 16.9.3 where allowing an appeal against a sanction only, substitute for the sanction any other sanction that could have been imposed by the Disciplinary Panel.
- 16.10 Fresh consideration by the Disciplinary Panel will be undertaken in accordance with the relevant paragraphs of this procedure and by a freshly convened Disciplinary Panel.
- 16.11 The Appeal Panel may at any time, exercise its discretion to adjourn the proceedings.

## **Appeal Panel**

- 17.1 The Complaints Secretary will convene an Appeal Panel of 5 individuals drawn from a pool of persons independent of the Preliminary Investigation Panel and Disciplinary Board maintained for purposes of appeals. The Complaints Secretary will identify a Chair of the Appeal Panel.
- 17.2 When convening the Appeal Panel the Complaints Secretary will inform proposed members of the Appeal Panel of the identity of the member and any relevant witnesses in order that the proposed members of the Appeal Panel can consider whether there are any conflicts of interest affecting their eligibility to be on the Disciplinary Panel.
- 17.3 Any meeting or hearing of the Appeal Panel may take place through any mode of simultaneous communication including telephone and/or video conferencing provided that each person at the meeting or hearing is able to hear every other person.
- 17.4 The Complaints Secretary will appoint a person to keep of note of any Appeal Panel hearing.
- 17.5 The Appeal Panel may appoint a legal assessor to provide it with advice in connection with the allegation and the hearing.

[1] 'Summary Disposal' means dealing with minor allegations of misconduct at an early stage, without the need to go through the full disciplinary process.