

# **Professional Conduct Procedure**

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## **Information for prospective Complainants**

### About this document

The Institution's member conduct and disciplinary procedures are governed by its Royal Charter, By-laws and Regulations. As a supplement to these the Institution publishes a series of information documents, of which this is one. The relationship between these different types of document is shown below.

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<b>1</b>	<b>Royal Charter</b>	The Royal Charter is an instrument of incorporation granted by the UK monarch. It confers independent legal personality on the Institution and defines its objectives, constitution and powers to govern its own affairs including the power to make By-laws.
<b>2</b>	<b>By-laws</b>	The By-laws are approved by the Privy Council. They set out the rules that govern the actions of the Institution. They set out the general standards of conduct required of Institution members and require the Trustee Board to make Code of Conduct Regulations. They also define improper conduct, require the Trustee Board to make Disciplinary Regulations and set out members' liability to be penalised if found guilty of improper conduct.
<b>3</b>	<b>Regulations</b>	The Regulations set out the directives made by the Institution Trustees in defined subject areas, including the Code of Conduct Regulations and the Disciplinary Regulations.
<b>4</b>	<b>Information</b>	Information documents supplement the Regulations and are intended to help people who engage with the Disciplinary Procedures.

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All of the documents listed above are available on the Institution's website.

### Information for prospective Complainants

#### Key messages

- 1** All Institution members are obliged to adopt a standard of conduct that is exemplified by the Institution Code of Conduct; 'exemplified' means that the Code of Conduct is not exhaustive but provides examples of the standard of behaviour we expect.
- 2** The Institution's disciplinary procedure is the mechanism through which we respond to complaints about the conduct of its members. We will investigate and may take action where there is evidence of improper conduct and where it is in the public interest to do so. We will prioritise the public interest over the interests of our members.
- 3** Any person can complain about an Institution member if they believe that the member has failed to meet the standard of conduct that we expect of them. Complainants will need to provide evidence of the misconduct and explain how the member's action or inaction amount to improper conduct.

#### Further information

Please read this document and refer to the other information we publish on our website. If, when you have done this, you have any questions about the Institution's disciplinary procedure, please contact:

The Clerk to the Assessors  
Institution of Mechanical Engineers  
One Birdcage Walk  
Westminster  
London  
SW1H 9JJ

Institution staff can give more information about the procedure but may not discuss the details or merits of a possible, on-going or completed complaint.

#### How to make a complaint

To make a complaint you must complete, sign and send a copy of the Complaint Form which is available on the Institution's website.

### Introduction

1. The Institution obliges its members to agree to abide by its Code of Conduct (the Code). The Code sets the general standard of behaviour which members are expected to meet.

2. This document explains how the Institution responds to these complaints, from the perspective of the Complainant. It is part of a series of documents provided to all involved in the complaints process and which are available on the Institution's website.

Anyone can make a complaint about the conduct of an Institution member. No company, firm or other organisation can be an Institution member so complaints cannot be made to the Institution about them.

### Professional conduct

3. The Institution's By-laws set out the principles that underpin the high standards of professional conduct required of Institution members. In summary, members are required to act as ambassadors of the Institution who:
  - a. conduct themselves in a manner that upholds and enhances the reputation of the Institution, the profession of Mechanical Engineering and the Institution's members; and
  - b. conduct their professional work and relationships with integrity and objectivity and with due regard for the welfare of the people, the organisations and the environment with which they interact; and
  - c. take reasonable steps to maintain appropriate professional competencies.
4. The Code of Conduct for members, which sets out more specific conduct requirements, is founded on these By-Laws. It is important to note that the Code of Conduct deals with members' conduct whether they are acting in a professional or private capacity; it may also apply to conduct that took place before the date on which an applicant was elected as a member of the Institution, including in respect of unspent convictions by a criminal court in the United Kingdom or a finding by an overseas court of an offence which would constitute a criminal offence if committed in the United Kingdom. It does not, for example, refer to commercial matters such as fees, contract terms or copyright, for which legally enforceable remedies exist elsewhere.

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### Before you make a complaint

5. The By-laws and Code of Conduct Regulations are available on the Institution's website.
6. It must be in the public interest for us to investigate the complaint. Our disciplinary procedure is not a means for settling disputes or disagreements; we cannot award compensation or make other financial settlement.
7. You should also ask yourself whether your complaint falls into one of the following categories:
  - a. **Non-members** are not subject to the Code of Conduct. Please check that the individual is a current member of the Institution on the date on which you send us a complaint. You can check if someone is an Institution member by contacting our membership department using the contact details on our website.
  - b. **Institution staff:**
    - i. Staff who are not also Institution members are not subject to the Code of Conduct and the Disciplinary Regulations. Concerns about the conduct of such staff, or about organisational or policy matters of the Institution as a corporate body, or about any Institution activity, product or service, should be addressed to the Chief Executive.
    - ii. Concerns about the conduct of Institution staff who are also Institution members and that relate to their conduct as an employee, should be addressed to the Chief Executive. A Code of Conduct complaint may be considered when the concerns do not relate to the member's Institution employment, or when an employee complaint to the Institution has concluded.
  - c. **Criminal matters** should be referred to the police (or other relevant authority) for investigation and / or action before making a complaint.
  - d. **Commercial or personal disputes** are not covered by the Code of Conduct or the Disciplinary Regulations; neither do we provide legal advice. In these cases, you should seek independent legal advice.
  - e. **Whistle-blowing** refers to an employee, former employee or member of an organisation raising concerns to people who have the power and presumed willingness to take corrective action. The Institution has

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no power to order corrective action and so cannot respond to complaints that are, in effect, whistle-blowing. We provide separate advice on this matter on our website. You may also find it helpful to refer to the advice provided by the Engineering Council ([www.engc.org.uk](http://www.engc.org.uk)).

### When we receive the Complaint Form

8. Within three working days of the receipt of a completed Complaint Form, the Clerk to the Assessors will confirm receipt of the form and any supporting documents. They may also ask you to clarify the information you provided or to provide additional information.
9. The complaint process starts when the Clerk to the Assessors has received the completed Complaint Form, all applicable supporting information requested on the complaint form, and any documentation and other information requested in writing by the Clerk to the Assessors.

### How will the complaint be managed?

10. Below is a summary of the disciplinary process (you can find more information on our website). At the end of this document there is a flowchart showing the process in overview and a summary of the key characteristics of the process.
11. The Institution's disciplinary process is broadly divided into three stages, triage, investigation and hearing.
12. **Triage** is the process during which we:
  - a. check that the Complaint Form is complete and that there is supporting evidence; and
  - b. check that the complaint is in scope, that is whether it can be considered under Institution By-laws and Regulations; and
  - c. pass complaints that are in scope to an Assessor to determine whether the complaint should be investigated.
13. **Investigation** establishes the facts as far as is needed to reach a reasonable view about whether there is a realistic prospect of the facts of the complaint being proved and of establishing serious improper conduct by the Defendant. To achieve this, we:
  - a. may make any further enquiries and/or obtain any material needed to investigate the complaint; and
  - b. may provide the member being complained about (the Defendant) with the particulars of the complaint and

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- copies of relevant evidence and invite them to provide observations about the complaint; and
- c. will, if appropriate invite the Complainant to submit further information in response to the Defendant's observations.
14. At relevant points within triage and investigation, we will:
- a. tell you whether we can or cannot respond to your complaint; and
  - b. advise you about alternative methods of dealing with your concerns, where appropriate.
15. If the investigation establishes that there is a realistic prospect of the facts of the complaint being proved and of establishing serious improper conduct by the Defendant, the Investigating Board will refer the complaint to a Disciplinary Board for a hearing.
16. **Hearings** are formal and public events at which a Disciplinary Board determines, on the basis of the evidence available and of representations and witness statements, whether improper conduct is proved on the basis of the balance of probabilities.
17. The case is presented by the Institution, represented by the Investigating Board, although you, as the Complainant may be called to give evidence.
18. The Disciplinary Board will weigh up the available evidence and decide which position is most probably true, that of the Investigating Board or that of the Defendant. Where accounts provided by the parties are both equally credible, the Disciplinary Board will take particular account of the need for the Institution to protect the public and the reputation of the profession. The Board will find the Defendant either guilty or not guilty of improper conduct.

### Sanctions

19. A sanction may be applied when a Defendant is found guilty of improper conduct. Sanctions are strictly limited to discipline of the member. The disciplinary process cannot provide any form of compensation or restitution to a Complainant.
20. The Disciplinary Board may:
- a. admonish or reprimand the member; or
  - b. suspend the member from Institution membership temporarily; or

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- c. expel the member from Institution membership.

### Appeals

- 21. As the Complainant, you have rights of appeal during the triage and investigation stages. Appeals against the outcome of a hearing may be made by the Investigating Board as it is the body that presents the case.
- 22. There are three grounds on which appeals are permitted:
  - a. the decision was unreasonable or could not be supported by the evidence; or
  - b. there was a serious procedural irregularity in the proceedings; or
  - c. the sanction applied was not commensurate with the offence.

### How long will the process take?

- 23. We aim to investigate complaints as quickly as possible while also being fair and thorough to all parties. However, it can take up to six months for a relatively straightforward complaint to over a year, depending on, for example, how complex the complaint is and how many people are involved.
- 24. Sometimes there are factors outside of our control; for example, when we need to wait for a court to provide documents, or when we need to seek an expert opinion or additional witness statements. In some cases, these factors can add several months to the time it takes to handle the complaint.
- 25. It is, therefore, rarely possible to provide an accurate estimate of how long it will take to investigate any particular complaint. However, in the interests of fairness and transparency and for the information of all involved, we provide guidelines on timings in PC08 Complaint categories and timescales. These guidelines apply to the Triage and Investigation stages of complaint handling. If a complaint is referred for a hearing, the Disciplinary Board will work to timescales that are appropriate to the particular complaint.

### How we keep you informed

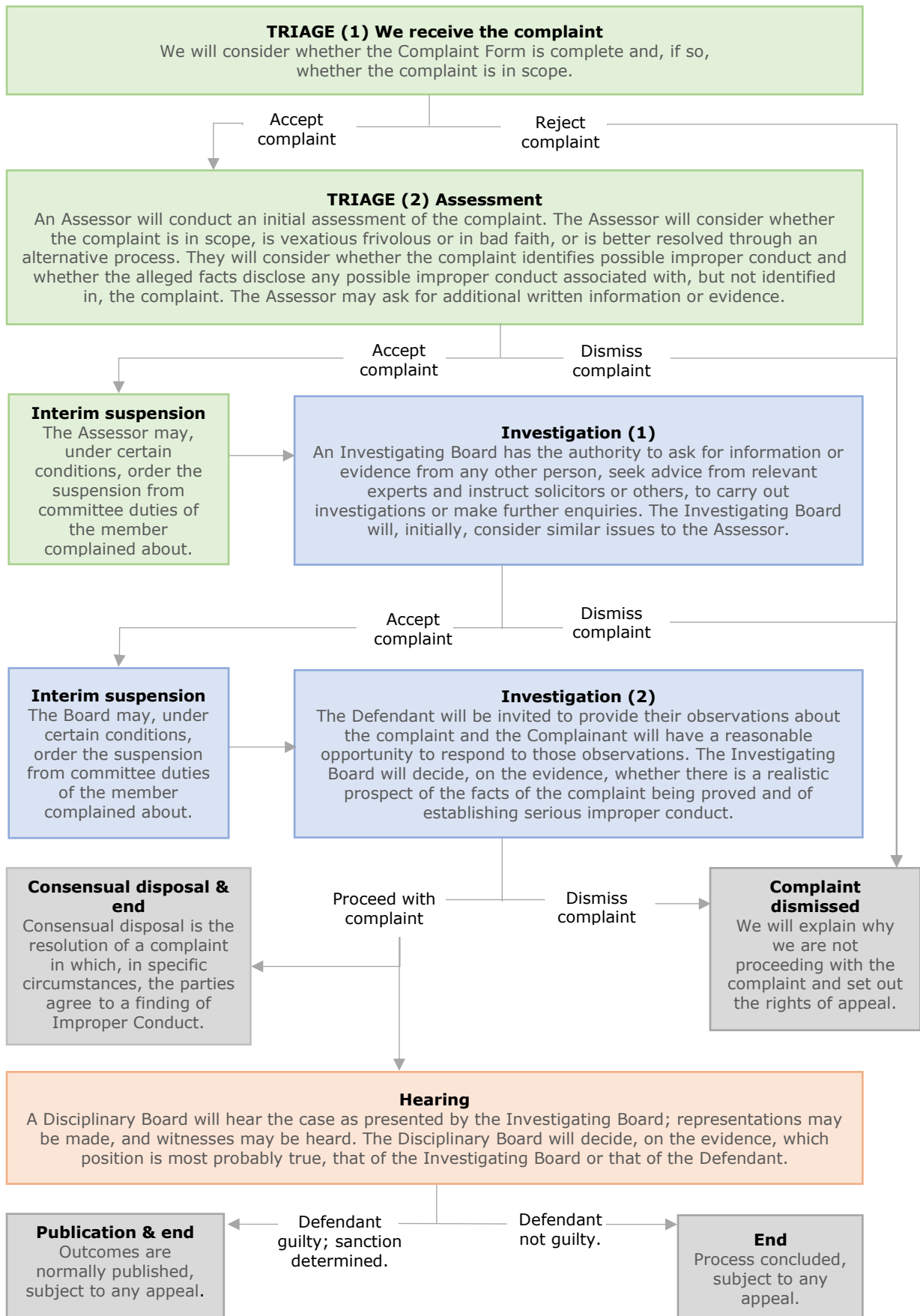
- 26. We will write to you at appropriate points throughout the process to tell you about any significant developments, including any delays.
- 27. You can contact us at any time to ask how the case is progressing. Similarly, you can contact us if you want to discuss your complaint. In both instances, please contact the Clerk to the Assessors and the Investigating Panel.



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- Confidentiality** 28. Correspondence between the Complainant, the Institution member, and the Institution is private and confidential. We will not communicate a complaint or the accompanying papers to anyone who is not directly involved in the case unless required to handle the complaint and unless we need to seek legal advice about the procedure or are required to by law or any other regulatory requirement. You can read more about confidentiality on our website.
- What information will the Institution member receive?** 29. The Institution member who is the subject of the complaint will need to be shown all material relevant to the complaint against them. We are unable to pursue a case if we are not able to share the material, including the materials you provide at any stage of the process.
- Costs** 30. Complainants are responsible for any and all costs associated with submitting a complaint and for any and all personal costs related to their involvement in the complaint process.

Overview of the Institution’s complaints handling process



Key characteristics of the Disciplinary Process

Core disciplinary process

	1	2	3
	Triage	Investigation	Hearing
<b>Process purpose(es)</b>	<ul style="list-style-type: none"> <li>- Confirm Complaint is in scope</li> <li>- Identify suitable alternative resolution process</li> <li>- Identify nature of Complaint</li> <li>- Consider interim suspension</li> </ul>	<ul style="list-style-type: none"> <li>- Investigate facts</li> <li>- Determine whether to refer for hearing</li> </ul>	<ul style="list-style-type: none"> <li>- Hear the Complaint</li> <li>- Judge whether guilty or not guilty</li> <li>- Apply sanction, when guilty verdict</li> </ul>
<b>Person or body making decision(s)</b>	<ul style="list-style-type: none"> <li>- Clerk to the Assessors</li> <li>- Assessor</li> </ul>	<ul style="list-style-type: none"> <li>- Investigating Board</li> </ul>	<ul style="list-style-type: none"> <li>- Disciplinary Board</li> </ul>
<b>Defendant made aware of the Complaint?</b>	<ul style="list-style-type: none"> <li>- Not by Clerk to the Assessors</li> <li>- By Assessor if an Interim Suspension Order is made</li> </ul>	<ul style="list-style-type: none"> <li>- If complaint is in scope and could amount to serious improper conduct</li> </ul>	<ul style="list-style-type: none"> <li>- Defendant already aware</li> </ul>
<b>Submissions and representations permitted</b>	<ul style="list-style-type: none"> <li>- Written</li> </ul>	<ul style="list-style-type: none"> <li>- Written</li> </ul>	<ul style="list-style-type: none"> <li>- Written or in person or via representative</li> </ul>
<b>Interim Suspension Order available (ISO)?</b>	<ul style="list-style-type: none"> <li>- Yes</li> </ul>	<ul style="list-style-type: none"> <li>- Yes</li> </ul>	<ul style="list-style-type: none"> <li>- No</li> </ul>
<b>Outcomes possible</b>	<ul style="list-style-type: none"> <li>- Dismiss</li> <li>- Refer for investigation</li> </ul>	<ul style="list-style-type: none"> <li>- Dismiss</li> <li>- Consensual Disposal</li> <li>- Refer for hearing</li> </ul>	<ul style="list-style-type: none"> <li>- Finding for the Defendant or finding for the Investigating Board</li> </ul>
<b>Sanctions available</b>	<ul style="list-style-type: none"> <li>- None</li> </ul>	<ul style="list-style-type: none"> <li>- Consensual Disposal (letter of advice or warning)</li> </ul>	<ul style="list-style-type: none"> <li>- Admonish or reprimand</li> <li>- Suspend membership or expel</li> </ul>

Appeals

<b>Rights of appeal</b>	<ul style="list-style-type: none"> <li>- By Complainant, against dismissal</li> <li>- Review of an ISO</li> </ul>	<ul style="list-style-type: none"> <li>- By Complainant, against dismissal</li> </ul>	<ul style="list-style-type: none"> <li>- By Defendant</li> <li>- By Investigating Board</li> </ul>
<b>Person or body hearing the appeal</b>	<ul style="list-style-type: none"> <li>- Assessor (Clerk's dismissal)</li> <li>- Investigating Panel (Assessor's dismissal)</li> <li>- Appeals Panel (review of ISO)</li> </ul>	<ul style="list-style-type: none"> <li>- Investigating Panel (Assessor's dismissal)</li> </ul>	<ul style="list-style-type: none"> <li>- Appeals Board</li> </ul>