

Professional Conduct Procedure

Issues that arise in complaints

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.

1	Royal Charter	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.
2	By-laws	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.
3	Regulations	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.
4	Information	Information documents supplement the Regulations and are intended to help people who engage with the Disciplinary Procedures.

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

Issues that arise in complaints

Introduction

1. This document sets out a range of issues that arise within complaints. It is not exhaustive, neither does the inclusion in this document indicate that the issue is a common constituent of complaints made about Institution members. There is no significance in the order of the issues.
2. The document summarises the background and legal situation, where relevant, and provides an indication of how the issues will be considered during the handling of a complaint against an Institution member.
3. This document will be updated from time to time to take account of matters arising in complaints over time.

Complaints about events that occurred a long time ago

4. The Institution disciplinary procedures do not state how long after an incident a complaint must be made. It can, however, be more difficult to establish improper conduct in relation to events which happened a long time ago.
5. When considering cases in which the events, and therefore the potential improper conduct, occurred a significant time before the hearing, the following will be taken into account:
 - a. why there has been a delay in making a complaint;
 - b. what has prompted the complaint;
 - c. whether the events were an isolated incident or a continuing pattern of behaviour.

Social media and the internet

6. The Institution does not wish to limit its members' use of social media per se and recognises that it can be a useful professional tool. However, inappropriate use of social media by members can be damaging to public confidence in the Institution and the profession.
7. When considering cases relating to the use of social media, some or all of the following factors may be taken into account:
 - a. whether any statements provided by the Defendant in respect of their social media use raise questions about their judgment or sense of professional responsibility, for example expressing a view that social media content can be 'private', or that personal social media does not impact on professional standing;
 - b. whether the Defendant has shown insight into the potential impact of their behaviour;

- c. whether the Defendant's social media use would be likely to undermine public confidence in the Institution or the profession.

Abuse of the privileged position of Institution members

- 8. Clients, employers, colleagues and the public, have a right to be protected from Institution members who seriously abuse the trust placed in them, for example in pursuit of sexual gratification or financial gain. Institution members who abuse the trust placed in them can expect to forfeit the privileges which come with being an Institution member. Such abuses that involve vulnerable individuals will be considered to be particularly serious.

Dishonesty

- 9. Clients, employers, colleagues and the public should be able to rely on an Institution member's integrity. Dishonesty, particularly when associated with professional practice, is highly damaging to public confidence in the profession.
- 10. Dishonesty is serious even when it does not involve direct harm to individuals (for example defrauding an employer or providing misleading information) because it can undermine public confidence in the profession.
- 11. Examples of dishonesty in professional practice include, but are not limited to:
 - a. defrauding an employer or contracting body;
 - b. falsifying and/or improperly amending records;
 - c. submitting or providing false references;
 - d. providing misleading information on a CV;
 - e. failing to take reasonable steps to ensure that statements made in formal documents are accurate;
 - f. misconduct in relation to research, for example presenting misleading information in publications.

Misleading behaviour

- 12. Where, at the factual stage of an investigation or a hearing, it is found proved that the Defendant made a statement that was deliberately misleading, the decision-making body would be entitled to view the matter seriously when considering its decision, because deliberately misleading behaviour calls into question the Defendant's integrity. Where, on the other hand, there is a finding that a statement was misleading but not deliberately misleading or deliberately dishonest, then the decision-making body would need to consider carefully whether the tests for a finding of improper conduct are met.

Personal behaviour

- 13. Some behaviour on the part of a registrant, such as indecency or violence, is of concern to the Institution even though it may not be connected with professional practice as it can still

undermine the public's trust in the profession. Encouraging others to take part in such behaviour is likely also to be a concern.

14. In some cases, a registrant's personal behaviour or attitudes, such as a serious or persistent contempt for the safety, rights or dignity of others can indicate that he or she is potentially unfit to be a member of the Institution.

Sexual misconduct

15. Sexual misconduct encompasses a wide range of conduct from criminal convictions for sexual assault or sexual abuse (in the case of children, including child pornography) to sexual misconduct with colleagues.

16. Sexual misconduct seriously undermines public confidence in the Institution and the profession. The misconduct should be viewed as even more serious if:

- a. there is an abuse of a position of trust; and/or
- b. the Defendant has been required to register as a sex offender.

17. The Board should be aware of the potential risks to the wider public and to public confidence in the Institution and the profession. In cases of serious sexual misconduct, the Board may reasonably determine that expulsion might be the appropriate sanction.

Sexual offences and child pornography

18. A person who has been convicted of or has received a caution for an offence listed in Schedule 3 of the Sexual Offences Act 2003 is required to 'register' under Section 80 of the same Act and may be required to undertake a programme of rehabilitation or treatment. Sexual offences include involvement in child pornography.

19. While the Courts rightly consider the degree of seriousness of the offence(s) when sentencing, the Institution takes the view that any conviction for child pornography made against an Institution member is a matter of grave concern because it breaches the public trust and undermines public confidence in the Institution and the profession. For these reasons, any involvement in child pornography by an Institution member should lead the Board to consider whether expulsion is the only proportionate sanction.

20. If the Board decides that a sanction other than expulsion is proportionate it is vital that full and clear reasons are given.