

# **Professional Conduct Procedure**

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## **Reporting a criminal or civil conviction**

## 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.

### Reporting a criminal or civil conviction

The Institution's Code of Conduct Regulations and Disciplinary Regulations are an important part of how the Institution protects the public and the reputations of the Institution and the profession.

These documents, plus the Code of Conduct Instructions, which provide clarity and more information on the interpretation of the Code of Conduct in greater detail to help those who are subject to or responsible for applying the Regulations, are available on the Institution website.

#### **Members' conduct**

1. All Institution members are obliged to conduct themselves in a way that is consistent with the Institution By-laws and Code of Conduct Regulations.
2. Only Institution members are subject to the Code of Conduct Regulations. The Code of Conduct Regulations apply to all Institution members, irrespective of their membership grade, wherever they live or work and whether they are acting in a professional or private capacity; they may also apply to conduct that took place before the date on which an applicant is 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.

#### **Members obligation to report a conviction**

3. The Code of Conduct Regulations state that members are to act with integrity and in a reliable and trustworthy manner.
4. The Code of Conduct Instructions require members, if convicted of a criminal or civil offence anywhere in the world to inform the Institution promptly, and provide such information concerning the conviction as the Institution may require. This does not include Fixed Penalty Notice (or equivalent) offences.
5. You should, therefore, inform the Institution without delay, if anywhere in the world you:
  - a. are found guilty of a criminal or civil offence; or
  - b. are given an Anti-Social Behaviour Order whether as the result of civil or criminal proceedings.

### What happens when you report a criminal or civil conviction

6. When you inform us that you have been convicted of a criminal or civil offence, we will acknowledge your correspondence within three days.
7. We will then treat your correspondence as a self-referred complaint about your conduct. We will, therefore, proceed with our normal disciplinary procedures.
8. The fact that you report a criminal or civil conviction does not automatically mean that we will proceed with an investigation, a hearing by a Disciplinary Board or that you will be sanctioned. The action taken in each individual case will depend on the circumstances of that case.
9. Please read the following information before contacting us to report a conviction.

### Convictions

10. "Convictions" refers to a decision 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.
11. Where a certificate of conviction is available and accepted by the decision-making body, that certificate will be taken as conclusive proof of the offence having been committed. The only exception is if there is evidence to the effect that the Defendant is not the person referred to in the certificate.
12. A conviction, as evidenced by a certificate of conviction, shows that the Defendant may have conducted themselves improperly. Therefore, when the complaint is supported by a certificate of conviction, the allegation of improper conduct is made in respect of the conviction itself. The conviction itself, or the truth or falsehood of the events which led to the conviction shall not be challenged or reinvestigated. The consideration will be whether the conviction is sufficient to warrant a finding of improper conduct.

### Cautions

13. In England and Wales, a caution may be given by the police when there is sufficient evidence for a conviction, but it is not considered to be in the public interest to pursue criminal proceedings. To be given a caution, the individual must have admitted guilt and consented to the caution.
14. A caution, as duly evidenced, shows that an Institution member may have conducted themselves improperly.

Therefore, when the complaint is supported by a duly evidenced caution, the allegation of improper conduct is made in respect of the caution itself. The caution itself, or the truth or falsehood of the events which led to the caution shall not be challenged or reinvestigated. The consideration will be whether the caution is sufficient to warrant a finding of improper conduct.

### **Conditional discharges**

15. A conditional discharge may only be imposed on a person following a finding of guilt. However, Section 14 of the Powers of Criminal Courts (Sentencing) Act 2000 states that a conditional discharge is not a conviction for any purpose other than the proceedings in which the order was made. A conditional discharge cannot be treated as though it were a caution or conviction. Rather, the consideration shall be whether the events that led to the conditional discharge being applied amount to improper conduct.

### **Alternatives to prosecution – Scotland**

16. In Scotland, the Procurator Fiscal may decide that prosecuting an alleged offence is not in the public interest and may apply an alternative measure. Alternatives to prosecution include: a warning; a Fiscal fine; a compensation order; a work order; a road traffic fixed penalty; or rehabilitative support. The acceptance of the offer of an alternative to prosecution does not, unlike a caution, amount to an admission of guilt by the accused.

17. Because of this a Scottish alternative to prosecution cannot be treated as though it were a caution or conviction, and thus as showing improper conduct. Rather, where an offer of an alternative to prosecution has been accepted, the consideration must be whether the events that led to the offer and acceptance of an alternative to prosecution amount to improper conduct.

### **Determinations**

18. "Determinations" refers to decisions made by another institution or body in the United Kingdom (or elsewhere) which has determined that the Defendant is guilty of improper conduct, or an equivalent finding.

### **Rehabilitation of Offenders Act**

19. The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013 came into force on 29 May 2013. The Order states that certain spent convictions and cautions are "protected" which means there is no requirement on individuals to disclose these and they cannot be taken into account when making a decision on an individual's suitability to carry out a particular occupation.

## Reporting a criminal or civil conviction

20. A person applying for membership of the Institution is not obliged to declare cautions or convictions considered spent under The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (Amendment) (England and Wales) Order 2013. When considering a case which involves cautions/convictions which have not been declared to the Institution, legal advice will be sought.

### **How to tell the Institution that you have been convicted of a criminal or civil conviction**

21. You should write to:

The Clerk to the Assessors and Investigating Panel  
Institution of Mechanical Engineers  
1 Birdcage Walk  
Westminster  
London  
SW1H 9JJ

Email: [jp.clerk@imeche.org](mailto:jp.clerk@imeche.org)

22. When you write to us you should include as much of the information below as possible:

- a. your full name and date of birth;
- b. your Institution membership grade;
- c. your Institution membership number;
- d. your contact details (address, email and telephone number);
- e. the date and place of conviction;
- f. the nature of the offence;
- g. details of any sentence applied;
- h. copies of any certificates of conviction or equivalent;
- i. details of any ongoing or concluded appeal.