

RULES OF CONDUCT AND DISCIPLINARY PROCEDURES



297 Euston Road
London NW1 3AD
United Kingdom

Tel: 020 7387 4949
www.instmc.org

STATUS

Originally approved by Council on 19/07/1994

Changes agreed in principle by Council on 24/04/2002

Re-draft completed on 28/06/2002

New draft put to EC(UK) for comment on 28/06//2002

Submitted to Council for final approval on 16/10/2002

Approved by Council on 16/10.2002, subject to any comments from EC(UK)

EC(UK) confirmed that new version satisfied Schedule Requirements on 18/10/2002

Revised December 2009

Revised and approved by Trustee Board on 27 October 2016

Reviewed by EngC(UK) as part of quinquennial review, November 2016

Reviewed by EngC(UK) as part of quinquennial review, September 2020

Revised October 2020

Revised and approved by Trustee Board on 25 March 2021

In this document, the term “member” applies to Associates, Licentiates, corporate Members and Fellows of the Institute. The Institute may also apply these Rules of Conduct and Disciplinary Procedures to other classes at the discretion of the Trustees.

RELEVANT ARTICLE AND BYELAWS

This document is promulgated under the provisions of Royal Charter Article 11:

“The qualifications, methods and terms of election, privileges and obligations, including liability to expulsion or suspension, of members of each of the classes of the Institute shall be such as the Byelaws shall prescribe”.

and the following Byelaw:

35. (1) Members shall at all times so order their conduct as to uphold the dignity and reputation of their profession and to safeguard the public interest in matters of safety and health and otherwise. They shall exercise their professional skill and judgement to the best of their ability and discharge their professional responsibilities. They shall maintain and develop their professional competence through recorded participation in Continuing Professional Development (CPD) programmes or through other means as the Board may from time to time approve.

(2) The Board shall make Regulations covering any allegations of improper conduct brought before it. Such Regulations shall include investigations, hearings, sanctions and appeals and shall be consistent with the prevailing principles of natural justice and with the Byelaws

(3) Members so excluded shall forfeit all claims, if any, to a return of the money paid by them to the Institute on their admission as a member thereof or by way of annual subscription as the case may be and shall forthwith cease to be members of the Institute.

(4) The Board shall from time to time promulgate Rules of Conduct which shall be in accordance with this Byelaw and shall have power to require members to conform to such rules. The Rules of Conduct may be amended, varied or rescinded as the Board think fit provided they shall not be inconsistent with the principles prescribed in this Byelaw. Members who are registered with the Engineering Council (UK) shall also be bound by the regulations of that body and the Board shall co-operate in exercising the disciplinary powers of the Engineering Council (UK) as required provided nothing therein is repugnant to the Charter or Byelaws of the Institute.

RULES OF CONDUCT

Members shall

1. Act with due skill, care and diligence and with proper regard for professional standards.

Members shall

only perform services in areas of their current competence.

not be connected with or carry out any work which would reflect adversely upon their professional status or the dignity and reputation of the profession.

ensure that they have the relevant knowledge, expertise, time and authority for the work they accept. Where appropriate, this may include access to the knowledge and experience of others, or access to other relevant sources of knowledge. In so doing, they shall pay due regard to the laws on copyright and other rights of intellectual property.

not terminate a professional assignment prematurely or refuse to complete work they have agreed to undertake, except for good reason and upon reasonable notice.

not knowingly mislead, nor allow others to be misled, in engineering matters.

when called upon to give an opinion in their professional capacity, do so to the best of their ability and ensure that it is objective and based upon the best available knowledge and information.

when their professional advice is not accepted, take all reasonable steps to ensure that the person overruling or neglecting that advice is aware of any danger or loss which may ensue and in appropriate cases, inform that person's employers of the potential risks involved.

present and review engineering evidence, theory and interpretation honestly accurately and without bias and quantify all risks.

when acting as independent experts, conciliators, mediators or arbitrators, do so objectively, with impartiality, uninfluenced by any personal considerations and without undue bias.

not make any public statement in their professional capacity without ensuring that their qualifications to make such a statement and any association that they may have with any party who may benefit from the statement are known to the person or persons to whom it is directed.

2. Prevent avoidable danger to health or safety.

Members shall

take all reasonable care to avoid creating any danger of death, injury or ill-health to any person or of damage to property by any act or omission whilst carrying out their work or as a result or consequence of their work, save to the extent that the creation of such danger is lawfully authorised;

take all reasonable care to protect the working and living environments of themselves and others and to ensure the efficient use of materials and resources;

conduct themselves so as to safeguard the public interest in matters of safety and health and in a manner consistent with the dignity and reputation of the engineering profession.

be aware of and comply with the obligations for health, safety and environmental protection in relation to both organisational and legislative requirements.

3. Prevent avoidable risk to both physical and cyber security.

Members shall

adopt a security-minded approach to professional and personal life, and exercise professional judgment on security matters, including their behaviour, use of social media, publications and public presentations.

assess potential threats and vulnerabilities, taking account of the potential harm to people, the asset or system, and the sensitivity of the information.

demonstrate a commitment to privacy, reliability and ethical conduct by: leading others in improving practice and being prepared to challenge assumptions and proposals.

Ensure good security-minded communications by adopting appropriate measures to protect sensitive information when it is communicated, used and stored, both within and beyond their organisation.

encourage an 'open reporting' approach to security risks, incidents and near-misses, coupled with a spirit of questioning and learning.

recognise the persistent nature and accessibility of information published on the internet or otherwise made publicly available.

Understand, comply and seek to improve lasting systems for security governance.

Contribute to public and professional awareness of security by sharing and promoting knowledge of effective solutions.

4. Act in accordance with the principles of sustainability and prevent avoidable adverse impact on the environment and society.

Members shall

insofar as they have authority, ensure that the uses of natural resources are fair, equitable and sustainable and take account of the needs of a diverse environment.

never knowingly or deliberately over-exploit natural resources and promote the actions required in engineering practice to improve, sustain and restore the environment.

promote the wise use of non-renewable sources through waste minimisation, recycling and the development of alternatives where possible.

never knowingly or deliberately cause the environment to be damaged or nuisance to be created by the discharge of unacceptable quantities of any substance or energy in any form.

5. Maintain and enhance their competence, undertake only professional tasks for which they are competent, and disclose relevant limitations of competence.

Members shall

continuously throughout their careers take all reasonable steps to maintain and develop their professional knowledge and skills relevant to the field of their professional activity including new statutory provisions and new developments in science or engineering, and their technical and commercial leadership and management skills.

define and undertake a personal programme of continuing professional development, and maintain records of the development activities they have undertaken.

disclose to the client of their work any limitations or uncertainties in respect of their competence that may arise during the course of the work. Members shall only proceed when the client confirms their agreement to proceeding on that basis.

be careful to make their customers aware that they will not be offering a service in matters lying outside their competence. If other professional advice is required, the customer shall be informed.

6. Accept appropriate responsibility for work carried out under their supervision.

Members shall

exercise proper supervision over any persons working under their authority or direction.

take all reasonable steps to ensure that persons working under their authority are both suitably equipped and competent to carry out the tasks assigned to them.

7. Treat all persons fairly and with respect.

Members shall

treat all persons fairly, without bias, and with respect;

not take advantage of any actual or potential client because of the client's age, inexperience, want of education, lack of business experience, ill-health or otherwise.

not accept a professional assignment if they are aware or suspect that another member is acting for the client in respect of the same assignment, unless the other member has consented to them acting.

not recklessly or maliciously injure or attempt to injure whether directly or indirectly the reputation, practice, employment or livelihood of another person.

behave with integrity and objectivity in their relationships with colleagues, clients, employers, employees and with society in general.

ensure, so far as they are able, that other members receive credit for their professional achievements and all rewards to which they are entitled.

8. Encourage others to advance their learning and competence.

Members shall

maintain up to date knowledge and skills and assist their development in others.

give all reasonable assistance to further the education, training and continuing professional development of other members and prospective members of the engineering profession.

seek to further the education and training of individuals under their supervision seeking eventual admission to the Institute.

9. Avoid where possible real or perceived conflict of interest, and advise affected parties when such conflicts arise.

Members shall

take care to avoid situations which may give rise to a conflict of interest between themselves and their associates on the one hand and any their existing or prospective clients on the other.

if they become aware of an actual or potential conflict of interest, make full and immediate disclosure of all the relevant facts to the client(s). Oral disclosures should be confirmed in writing as soon as reasonably practicable.

not knowingly undertake work on behalf of one client or employer that they may then need to review, authorise or certify on behalf of a second client or employer.

not be directors or substantial shareholders in any company with which they may have material dealings on behalf of another client or employer, without divulging the full facts in writing to that client or employer and obtaining their written consent.

take reasonable and appropriate steps to inform an employer, contractor, or client in writing of any conflict between their personal interest and faithful service to their employer or client that may impair their ability to make objective judgements.

in the event of any conflict between their duties to their superiors and colleagues or their duties to the engineering profession, ensure that their duties to the engineering profession prevail.

10. Observe the proper duties of confidentiality owed to appropriate parties.

Members shall

act for each employer or client in a reliable and trustworthy manner

not divulge any confidential information regarding the business affairs, technical process or financial standing of their clients, contractors, or employers past or present without their consent unless

- a) the information is already in the public domain; or
- b) they are compelled by law to make the disclosure; or
- c) disclosure is in the public interest; or
- d) the disclosure is made to professional advisers to the extent permitted by

law.

not use information obtained in confidence for the purpose of making personal profit. Neither shall they use any information obtained in the course of an assignment for the purpose for personal profit, if such action is contrary to the aims of the assignment.

not divulge, without prior permission, any unpublished information obtained by them as members of an investigating commission or advisory board.

11. Reject bribery and all forms of corrupt behaviour, and make positive efforts to ensure others do likewise.

Members shall

so order their conduct as to uphold the dignity and reputation of their profession and to safeguard the public interest.

not offer or give any fee, commission, discount or other inducement (financial or otherwise) to a third party in return for the introduction of clients or assignments unless they make full disclosure to the client of the inducement and the name of the recipient before entering into a binding agreement.

avoid deceptive acts and take steps to prevent corrupt practices and professional misconduct;

ensure that only legitimate qualifications and demonstrable experience are cited as evidence of professional competence.

when acting as independent advisers or consultants, not be the medium of payment made on their client's behalf unless so requested by their client;

when acting as independent experts, conciliators, mediators or arbitrators do so with impartiality, uninfluenced by any personal considerations.

reject bribery and not accept any material payment or benefit from any person other than their employer in connection with professional services rendered to their employer. Gifts of a relatively trivial nature are not considered to be an inducement.

familiarise themselves with, and comply with, the relevant anti-corruption laws of the countries in which they work or of which they are citizens or residents. Members based in the UK or working for UK-based firms shall be mindful that UK-registered companies and UK nationals can be prosecuted in the UK for an act of bribery committed either in the UK or partially or wholly overseas.

if in senior management positions, make positive efforts to ensure that, as far as reasonably possible, bribery and corruption does not exist, and cannot occur, in

the organisations for which they work. They shall set in place anti-corruption protocols and procedures so that junior employees are not drawn into corrupt practices through intimidation or persuasion by senior colleagues, and whereby they are able to report such practices without fear of reprisals of any kind, in particular, damage to their careers or prospects of advancement.

12. Raise a concern about a danger, risk, malpractice or wrongdoing which affects others ('blow the whistle'), and support a colleague or any other person to whom you have a duty of care who in good faith raises any such concern.

Members shall

recognise they have an ethical responsibility as engineers to act when they encounter a material and unmanaged risk, danger, malpractice or wrongdoing which adversely affects others.

on becoming aware of such a concern, raise it with, or report the concern to, their immediate employer, manager or client representative.

be aware of their organisation's regulatory reporting systems, and use these to escalate a concerns that has failed to be addressed by their immediate employer, manager or client representative.

in the absence of a formal reporting route, endeavour by other means to raise the concern internally at an appropriate level of management.

if internal escalation proves ineffective, raise the concern with an external body, such as the Health and Safety Executive.

If all reasonable attempts to raise the concern internally and with external regulators have been tried and been rejected, raise the concern in the public arena to an extent that is proportionate.

be familiar with the legal protection offered to whistleblowers in the country in which they are operating, In the UK if a genuine concern is raised by someone who reasonably believes they are acting in the public interest, the law protects them from action taken by an employer for simply reporting a concern. This protection may not be available in other jurisdictions. Further advice is available at <https://www.engc.org.uk/whistleblowing>

not try to use the protection which relevant legislation may offer whistleblowers simply to air or extend a personal disagreement or grievance with an employer.

13. Assess and manage relevant risks and communicate these appropriately.

Members shall

when an approach is received from a potential customer, take all reasonable steps to understand and define the brief with the customer, including technical, logistical and contractual risks.

ensure they or their staff are competent to assess the hazards and risks of projects for which they are responsible, and to obtain appropriate support for this if required.

ensure they are aware of the risks of failing to achieve objectives, whether concerning performance, cost or time and take account of the consequences of any such failure and inform their employer or client.

identify and quantify all risks associated with their work and manage them in conformity with accepted engineering and environmental standards and in a manner which does not compromise the welfare, health and safety of society. They shall inform those for whom they work of all matters relating to risk in a full and timely fashion.

14. Assess relevant liability, and if appropriate hold professional indemnity insurance.

Members shall

ensure that all work is lawful and justified.

assess their potential liability for the accuracy and consequences of the assignments they undertake and, where appropriate, hold professional indemnity insurance together with statutory insurances, either personally or through their employers.

be aware of differing requirements in relation to professional indemnity in some countries and act accordingly.

15. Notify the Institute if convicted of a criminal offence or upon becoming bankrupt or disqualified as a Company Director or if membership with another professional body is terminated as a result of a disciplinary procedure.

Members shall

act honourably, responsibly, and lawfully so as to uphold the reputation, standing and dignity of the profession in general and the Institute in particular.

notify the Institute if they are convicted of a criminal offence in any country, or upon becoming bankrupt or disqualified as a Company Director.

notify the Institute if they have had membership of another professional body terminated as a result of a disciplinary procedure.

16. Notify the Institute of any instance(s) where membership has been removed at other professional bodies as a result of a disciplinary procedure

- a) Members shall inform the Institute in writing if their membership of any other professional body has been removed as a result of a disciplinary procedure.

17. Notify the Institute of any significant violation of the Institute's Code of Conduct by another member.

Members shall

inform the Institute in writing if they become aware, or have reasonable grounds for believing, that another member is or has engaged in conduct which is in breach of the Byelaws or Code of Conduct, but in so doing no member shall maliciously or recklessly injure or attempt to injure the reputation of another person.

DISCIPLINARY PROCEDURES

1. The Trustee Board of the Institute may instigate disciplinary procedures in connection with any member if the Board has reason to believe, with or without any allegations having been made, that the member may have been guilty of improper professional conduct or that the member has been adjudicated bankrupt or convicted of a criminal offence for which they are liable to be sentenced to a term of imprisonment of three months or more.
2. Any person has the right to bring, in writing, an allegation of improper professional conduct by a member and such allegations shall be referred to the Trustee Board, but without disclosure of the identities of either the person making the allegation or of the member against whom the allegation is made or of the details of the allegation, and the Board shall immediately instigate disciplinary proceedings.
3. As a first step in the disciplinary proceedings the Trustee Board shall appoint an Investigation Committee of no fewer than three members of the Trustee Board. The Board shall also appoint a Clerk to the Investigation Committee, who may be a member of the staff of the Institute.
4. The Investigation Committee shall for the purpose of investigating any allegation of improper professional conduct or the circumstances of the case under consideration make such enquiries (by correspondence or otherwise) of such persons as, in its absolute discretion, it deems fit.
5. If the enquiries do not appear to the Investigation Committee to indicate any *prima facie* case of improper professional conduct or if the Investigation Committee is satisfied the alleged improper conduct is trivial then the Committee may dismiss the allegation without hearing the complainant, without notifying the accused member of the complaint, and shall report the dismissal to Trustee Board, without giving any further details of the circumstances or of the identities of the complainant or of the accused member.
6. Unless the allegation is dismissed under the terms of paragraph 5, above, the Investigation Committee shall send written notice to the accused member of the nature and particulars of the allegation and shall invite them to put forward their observations in writing to the Committee within such period (not being less than 28 days) as the Committee shall specify. The accused member shall at the same time be advised that they are under no obligation to make any observations to the Committee but that, if they do not do so, or if the Committee does not regard any explanations or observations made to be satisfactory, the matter may be referred to a special meeting of the Trustee Board under Byelaw 35(2) which will then give the member a full opportunity of presenting their case.

7. After receiving the accused member's observations (if any) the Investigation Committee shall prepare a report on its findings and send it to the accused member inviting them to send their observations thereon to the Investigation Committee in writing within 28 days of the despatch of the report to the accused member. After receiving the accused member's observations upon the report or if none are received within the 28 days the Investigation Committee shall either:

7(i) if satisfied that the allegation is unfounded, dismiss the allegation and notify the accused member that the allegation has been dismissed; or

7(ii) dismiss the allegation but send its report to the Trustee Board and recommend that the accused member's attention be drawn to the conclusions and/or observations contained in the Investigation Committee's report; or

7(iii) in any other case submit to the Board a written statement of the allegation of improper professional conduct against the accused member and recommend to the Board that this is referred to a special meeting of the Board

7(iv) advise the accused member of the recommendations to the Board under 7(ii) or 7(iii).

8. At its meeting next following the receipt of a recommendation of the Investigation Committee pursuant to Paragraph 7(ii) or 7(iii), the Trustee Board shall either:

8(i) resolve that the accused member's attention be drawn to the conclusions and/or observations contained in the Investigation Committee's report; or

8(ii) if the Investigation Committee recommends that the charge of improper professional conduct be referred to a special meeting of the Trustee Board ("Hearing"), resolve to hear the charge of improper professional conduct against the accused member;

and shall advise the accused member of the decision.

9. When a charge of improper professional conduct is referred to a Hearing, the Chief Executive Officer of the Institute shall:

9(i) give notice to the accused member that the charge has been so referred; and

9(ii) inform the accused member of the date on which the Trustee Board proposes that the charge will be heard; and

9(iii) inform the accused member as to the practice of the Trustee Board in relation to hearing a charge of improper professional conduct and the manner in which the accused member may be represented before the Hearing.

10. Subject to the Byelaws and to these Disciplinary Procedures the Hearing shall have power to regulate its own practice and procedures. In all respects the Hearing shall be conducted and a decision reached in accordance with natural justice.

10(i) The Hearing may appoint a barrister or solicitor to sit with it for the purpose of advising it as to the manner in which it should exercise its functions.

10(ii) The Hearing may in any case where it appears just or expedient extend the time for doing anything or may dispense with the service of any notice and may adjourn any hearing from time to time.

11. At the Hearing the Investigation Committee shall place before the Trustee Board the information available to it in relation to the charge by documents or by the testimony of witnesses and shall either nominate one of its members to conduct the case against the accused member or employ solicitors or counsel for that purpose.

12. The Trustee Board may take into consideration information presented at the Hearing whether or not such information would be admissible as evidence in a Court of Law.

13. The accused member shall be given reasonable notice (not being less than 7 days) of the date of the Hearing together with a full written statement of the charge and the names of any witnesses to be called by the Investigation Committee and copies of any written statements made by those witnesses and of any documents to be placed before the Hearing.

14. The accused member shall at their own expense be entitled:

14(i) to attend the Hearing in person and to be heard in person or through a solicitor or counsel or other representative; and

14(ii) to submit to the Hearing any written evidence or documents; and

14(iii) to call witnesses in defence and to cross-examine any other witnesses testifying before the Hearing; and

14(iv) to be given any other reasonable opportunity to defend themselves against the charge.

15. If the Hearing finds the accused member guilty of improper professional conduct it shall determine that the accused member either:

15(i) be warned or advised about their future conduct: or

15(ii) be reprimanded; or

15(iii) be suspended from membership of the Institute for such period as the Trustee Board shall in its absolute discretion think fit; or

15(iv) be expelled from the Institute;

and advise the accused member in writing of its decision.

16. If the Hearing finds the accused member not guilty of improper professional conduct it shall so notify the accused member in writing and may advise or warn the accused member about their future conduct. The Trustee Board may, and at the request of the accused member shall, cause to be displayed on the Institute's website notice of the fact that the charge has been dismissed.

17. An accused member found guilty at a Hearing has the right to appeal but only on the grounds that the Hearing was improperly conducted, or was in some other way unfair. A member wishing to appeal shall write to the Chief Executive of the Institute within 7 days of being notified of the decision of the Hearing. The Chief Executive shall appoint an independent ombudsman to hear the Appeal, who shall have had no previous connection with the case. The ombudsman may choose to appoint one or more co-adjudicators to assist in the Appeal.

18. The ombudsman shall notify the accused member and the Trustee Board of the date of the proposed Appeal giving at least 7 days' notice. At the Appeal, the ombudsman shall invite the appellant to present their case, and the Trustee Board to respond. Either party may be represented by counsel or other persons. The ombudsman shall then deliver his decision, after due time for consideration where needed. The decision of the ombudsman shall be final.

19. The Trustee Board shall not publish notice of any order made by it pursuant to paragraph 15 save that if the order be that the accused member be suspended or expelled from the Institute notice of such suspension or expulsion shall be published on the Institute's website and in other media in such manner as the Board may decide, once any Appeal has been heard.

20. Any notice required to be given under these Procedures shall be deemed to be properly served if sent by email to the member's registered address and confirmed by recorded-delivery post (or air mail if overseas) to the address of the accused member contained in the Register. If no reply is received from the accused member within 28 days, the Investigation Committee or the Hearing or the Appeals ombudsman may proceed in default. If the member is subsequently able to demonstrate that notice was not in fact received, and they were unaware at the proper time of the proceedings being taken against them, the relevant proceedings shall at the member's request be reopened notwithstanding that they may have been concluded.

21. If a member has been found guilty of improper professional conduct resulting in the suspension of membership or expulsion from the Institute, the Institute shall, in the case of a member registered with the Engineering Council (UK), not necessarily by the Institute, inform the Engineering Council (UK) of the finding.

22. Any Engineering Council (UK) registered member found guilty by the Institute of improper professional conduct and who has a penalty imposed by the Institute which would entail the removal of the member's name from the Engineering Council (UK)'s register shall have the right to appeal to the Engineering Council (UK) under its procedures and regulations. Such appeals shall be heard only on grounds of procedural irregularity or unfairness and the Engineering Council (UK) shall not adjudicate on the substance of the case.