

## RULES OF PROFESSIONAL CONDUCT

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Modified and approved by Council of Management on 3<sup>rd</sup> June 2004 in accordance with by-law No 68. Updated September 2009 to coincide with the launch of the Chartered Institution of Civil Engineering Surveyors.

*Expressions used in these rules shall have the meanings assigned to them by the bye-laws, rules and regulations of the institution. The masculine shall imply the feminine.*

These rules are provided to govern the conduct of all members of the Chartered Institution of Civil Engineering Surveyors during their professional employment to ensure that they are guided at all times to serve the best interests of the public, the profession and their employer and maintain high standards of practice and professional conduct.

To that intent:

- 1 A member shall, as far as is reasonable, take all practical steps to ensure that his professional competence is maintained throughout his working life by the knowledge and practice which currently pertains in the science and art of his primary specialism
- 2 A corporate member (i.e. Member or Fellow) shall, in accordance with the bye-laws, provide to the institution in the form currently prescribed an account of his CPD activities or, if appropriate his reasons for failing to comply with clause 1
- 3 A member shall, at all times and however employed, use the appropriate skills and competence relative to his grade of membership as approved by Council of Management.
- 4 A member shall discharge his obligations to all those with whom he has professional relations faithfully and with integrity.
- 5 In promoting himself, a member
  - 5.1 shall be entitled to use the designatory letter applicable to his grade of membership as currently approved by Council of Management.
  - 5.2 shall not improperly canvas or solicit professional employment.
  - 5.3 in seeking a commission, shall do so in a clear and unambiguous manner and shall
    - 5.3.1 do so in writing.
    - 5.3.2 refrain from making derogatory comparisons with the services available from other practitioners.
    - 5.3.3 not use flamboyant or exaggerating language.
    - 5.3.4 not misrepresent the services available from his company
    - 5.3.5 ensure that the services being offered are appropriate to the prospective client's requirement

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- 6 In accepting an appointment a member shall ensure that:
  - 6.1 his terms of engagement setting out his obligations and entitlements have been established in writing and accepted
  - 6.2 his client is informed in writing of any shortfalls in the area of remit given to the member so there can be no dispute as to the extent of the services to be provided
- 7 A member shall not:
  - 7.1 maliciously or recklessly injure or attempt to injure, whether directly or indirectly, the professional reputation, prospects or business of another practitioner
  - 7.2 make or subscribe to any statement or reports, which are contrary to his bona fide professional opinions
- 8 A member shall:
  - 8.1 ensure that he, and all persons for whom he is responsible, observe safe working practices at their place of work whether on or off site, or in temporary or permanent office accommodation.
  - 8.2 by their actions avoid causing unnecessary damage or harm to the environment and, where possible, make a positive contribution towards the delivery of sustainable development
- 9 A member who practices in any country outside of the United Kingdom shall order his conduct according to these rules, so far as they are applicable, but where there are local regulations and recognised standards of professional conduct he shall adhere to them bearing in mind the high standards which the institution demands of its members.
- 10 A member convicted of a criminal offence, which in the opinion of Council of Management renders him unfit to be a member, shall be deemed to be guilty of improper conduct.

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### Disciplinary Procedures

Amended and approved by Council of Management on 3<sup>rd</sup> June 2004 in accordance with by-law No 68

*For the purpose of these regulations the term 'member' shall include both corporate and non-corporate members of the institution. The term 'improper conduct' shall have the meaning to be inferred from these regulations. The masculine shall imply the feminine.*

Subject to the rules of professional conduct and these regulations, the investigating panel and the disciplinary committee shall have the power to regulate their own practice and procedures to suit the particular case under investigation and will not be bound by the strict application of the laws of evidence and may adjourn the proceedings for any reason.

#### 1 Allegation of Improper Conduct

- 1.1 Any allegation of improper conduct on the part of a member, received from any source, shall be referred to the President of the institution who shall appoint an investigation panel to consider the matter further
- 1.2 The secretary of the institution shall acknowledge receipt of the complaint and where the complainant is not a member of the institution, shall provide them with a copy of the current rules of professional conduct and these disciplinary regulations.
- 1.3 To ensure receipt of all notices, the despatch of correspondence to either the complainant or the member shall be by recorded delivery, directed through the office of the secretary of the institution, or such other person as nominated by the President of the institution.

#### 2 Investigating Panel

- 2.1 The investigating panel (hereinafter referred to as 'the panel') shall comprise three Fellow members of the institution, at least two of who shall be current or past members of the Council of Management. The names of those appointed shall remain confidential to prevent any improper contact by either the member concerned or the complainant.
- 2.2 The panel shall, within one calendar month of their appointment, determine whether they consider the allegation is founded or otherwise. They may
  - 2.2.1 if they consider the allegation does not disclose a prima facie case, or that it is of such a trivial nature that it calls for no further action, dismiss the case without informing the member concerned that such an allegation had been made and without hearing the complainant, in which case the complainant shall be informed accordingly
  - 2.2.2 decide that they need to conduct an initial enquiry to determine whether or not the allegation is sufficiently founded to refer it to a disciplinary committee.
- 2.3 In cases where the panel decides to conduct an enquiry they shall send written notice to the member concerned giving the nature and particulars of the allegation and invite him to submit his observations in writing to the panel no later than one calendar month of the date of the notice. (In exceptional circumstances the panel may grant an extension of time).

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At the same time the member shall be informed that he is under no obligation to make any observations but that if he does not do so, or if the panel do not regard any explanations offered by him as satisfactory, the matter will be referred to a disciplinary committee which will give him a full opportunity to present his case.

- 2.4 Once a member has been notified that an allegation has been made against him he shall not be entitled to resign from membership of the Institution until all proceedings under these disciplinary regulations have been concluded.
- 2.5 The panel may call for additional particulars, clarification or evidence from the complainant, or the member concerned, at any time during the course of the investigation.
- 2.6 Where the complainant does not comply within one calendar month to a request by the panel for further information, the panel may dismiss the complaint and inform the complainant and member concerned
- 2.7 On receiving the member's observations and any further information requested from the complainant, the panel may:
- 2.7.1 dismiss the case where they find the allegations of improper conduct;
    - 2.7.1.1 is unfounded,
    - 2.7.1.1 does not disclose a *prima facie* case,
    - 2.7.1.2 is of such a trivial nature that it does not call for further action.
  - 2.7.2 where they find the member's conduct has technically contravened the provisions of any of the *rules of professional conduct* but the contravention is of such a minor nature that it does not warrant referral to a disciplinary committee, advise the member accordingly and warn him as to his future conduct.
- In all other cases the panel shall refer the allegation of improper conduct to a disciplinary committee.
- 2.8 Should the panel find as in 2.7.1 or 2.7.2 they shall report to the President accordingly and, subject to the complainant and the member concerned being informed in writing, this shall conclude the matter. The panel's findings shall not be made public unless not doing so would be detrimental to the member concerned.
- 2.9 The panel will not normally investigate allegations which fall within the competence of a criminal court, industrial tribunal, local ombudsman or other duly appointed body. However, in such cases the panel shall consider whether any findings of fact constitute a breach of the *rules of professional conduct* and/or bring the institution into disrepute. If they do and if the panel accepts those findings, they shall refer the matter to a disciplinary committee.
- 2.10 During any enquiry, communications between the panel, the complainant and the member concerned, shall be by correspondence only. Neither the complainant nor the member shall communicate directly with any member of the panel.
- 2.11 Members of the panel shall stand down at the conclusion of the case unless otherwise directed by the President

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### 3 Disciplinary Committee

- 3.1 The President shall appoint a disciplinary committee to hear any complaint referred by an investigating panel. No member of the committee shall have been a member of the investigating panel considering the case.
- 3.2 The disciplinary committee shall consist of five Fellows, two of who shall be past Presidents or Chairs of the Council of Management and three past or present members of Council of Management. The disciplinary committee may consult a practising barrister or solicitor of at least seven years' standing to advise them as to the manner in which they should best exercise their functions.
- 3.3 Once the complaint has been referred to a disciplinary committee, the secretary shall arrange that the member concerned be given notice that the matter has been referred to a disciplinary committee.
- 3.4 The investigating panel shall place before the disciplinary committee such information available to them following their investigation. The disciplinary committee shall, in the first instance, invite the member concerned to respond to the allegations against him in writing and may, if they consider they have sufficient evidence to do so, make a 'documents only decision'. However, should they consider it more appropriate, or should the member concerned so request, they shall call a meeting of all interested parties to hear evidence in person.
- 3.5 As soon as practicable after the decision to hold a hearing, and subject to any observations by the member concerned, the secretary shall give notice in writing to all interested parties of the date of the hearing, the practice of the disciplinary committee in relation to the hearing of the complaint, and the manner in which they may be represented. The date of the hearing shall be set no earlier than one calendar month and no later than two calendar months from the date the parties are notified by the secretary.
- 3.6 At the hearing a member of the investigating panel shall present the evidence received as a result of their initial investigation. The member concerned shall be given the fullest opportunity of being heard, of calling witnesses and cross-examining any other witness testifying before the committee. He shall be allowed to conduct his own case, or to be represented by a solicitor, counsel or another institution member of his choice, but not by any other person. On conclusion of the hearing the disciplinary committee will reserve its judgement and issue its decision in writing at a later date.
- 3.7 The disciplinary committee may take into consideration, act on and give such weight as they think fit to any information that may be available to them, whether or not such information would or would not be admissible as evidence in a court of law.
- 3.8 In the event that the disciplinary committee finds the allegation that a breach of the *rules of professional conduct* or other improper conduct has been proved beyond all reasonable doubt, they shall inform the member concerned of their decision and their reasons, together with their proposed recommendations to council. The member concerned will then be offered the opportunity to make representation to the disciplinary committee in mitigation of the proposed recommendations, either in writing, by appearing before the committee in person, or by being represented as in 3.6 above. The disciplinary committee shall take such representations into account in finalising their recommendations and report to council.

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3.9 In cases where the disciplinary committee finds that the member's conduct did not technically contravene the provisions of any of the rules of professional conduct but fell short of the recognised standards of professional practice and behaviour, or the contravention was only of a minor nature, they shall inform the President and advise the member concerned as to the propriety of his actions and future conduct.

### 4 Powers of Council

4.1 Disciplinary action may be taken against any member who is found:

4.1.1 to have contravened the provisions of any of the *rules of professional conduct*;

4.1.2 guilty of unprofessional conduct rendering him unfit to serve the public in his professional capacity or to be a member of the institution; or

4.1.3 to have brought the institution into disrepute.

4.2 In considering a report from the disciplinary committee that a breach of the *rules of professional conduct* or other unprofessional conduct has been established, Council of Management, in its absolute discretion, may:

4.2.1 warn the member as to his future conduct

4.2.2 reprimand, or seriously reprimand, the member

4.2.3 publish the member's name and brief details of the complaint

4.2.4 determine that the member should not hold office within the institution, or any subsidiary company, for such a period as considered appropriate

4.2.5 suspend the member from membership of the institution for such a period as considered appropriate

4.2.6 terminate the member's membership of the institution

4.2.7 require the member to pay the disciplinary committee's cost for any hearing, including the cost of any legal advice or representation

4.2.7 combine any of the above penalties as they consider appropriate

Council shall not impose a more severe penalty than that recommended by the disciplinary committee.

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4.3 The examination of a complaint against a member shall be concluded by the secretary who shall send a letter to both the member concerned and the complainant giving notice of:

4.3.1 The investigating panel's decision under either regulation 2.6, or 2.8

4.3.2 Council's decision under either regulation 3.9 or 4.2.

4.4 In implementing any decision under these regulations, Council reserves the right to give such publicity thereto as it may, in its absolute discretion, deem appropriate having regard for the interests of the public and the institution.

### 5 Appeals

5.1 The Construction Industry Council (CIC) has established an Independent Appeals Tribunal (IAT) for its member bodies, which may be used for appeals against the decisions by the disciplinary committee of the institution. A member shall be entitled, within one calendar month after receipt of the disciplinary committee's decisions, to give notice of intention to lodge an appeal with the CIC IAT against the decision that he has breached the institution's specific by-laws, rules, or codes governing professional conduct and/or that the penalty imposed is in accordance with the Institution's by-laws, rules, or codes.

5.2 Notice of intention to appeal shall be made by recorded delivery to the CIC IAT and the institution. The appellant will receive information as to the appeals procedures including an application form that must be completed and returned to the CIC IAT within the timescale stated on the form. A copy of the completed form shall be sent to the Institution at the same time.

5.3 The appeal shall be conducted in accordance with the CIC IAT procedures in force at the time the appeal was lodged

5.4 The appellant and the institution shall be bound by the decision of the tribunal hearing the appeal.

5.5 The appellant may be represented at the tribunal hearing at his own cost

5.6 Unless the institution specifically determines to the contrary, the institution will require the CIC IAT to exercise their discretion to award as to the costs of an appeal. Unless, by the exercise of that said discretion the CIC IAT specifically determines otherwise, the costs of a failed appeal shall be awarded against the appellant

### 6 Expulsions and suspensions

6.1 A member who is permanently expelled from membership of the institution shall immediately return to the institution their membership certificate and shall not be entitled to use any title, designatory letters, logo or description implying current or past membership.

6.2 A member who is suspended for any period shall immediately return to the Institution their membership certificate. During the period of suspension they shall not be entitled to exercise any of the rights or privileges of membership, or use any title, designatory letters, logo or description implying current membership. In all other respects they shall remain subject to the laws of the institution.