

Recognised Engineering Body Complaints and Disciplinary System – **MODEL CODE**

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Important information

This document sets out suggested topics for inclusion in the complaints and disciplinary system of professional engineering bodies recognised to register or recognise professional engineers.

This Code does not constitute as legal advice.

A body is encouraged to seek independent professional advice regarding the applicable laws to determine the body's obligations. Examples in this Code are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

Complaints and disciplinary system – model code

1. Definitions

In this model code, terms used are identical to those used in the **Glossary**, Part 7 of the Professional Engineering Body Recognition Guideline, including –

code of practice means the code of practice for professional engineers found in Schedule 4 Part 2 Division 2 of the Regulation.

recognised engineering body means a professional body of engineers for the time being recognised by the Secretary as a recognised engineering body.

registered professional engineer means a person who is registered as a professional engineer under the Act or recognised as a professional engineer under the Act.

code of practice means the code of practice for professional engineers found in Schedule 4 Part 2 Division 2 of the Regulation

In this model code –

complaint means a complaint to the body about a registered professional engineer made under this code

2. What actions may be the subject of a complaint?

A complaint may be made to the recognised engineering body that a registered professional engineer has failed to act in accordance with the code of practice. A complaint may be made and dealt with even though the person about whom it is made has ceased to be registered or recognised as a professional engineer.

3. Who may make a complaint?

Any person may make a complaint, including a client, the recognised engineering body and the Secretary.

4. How is a complaint made?

A complaint about a registered professional engineer may be made to the recognised engineering body. The complaint must be in writing and contain the particulars of the allegations on which it is based.

5. What happens after a complaint is made?

The recognised engineering body must consider a complaint as soon as practicable after the complaint is received. The body may then consider one or more of the following actions:

- (a) it may require the complainant to provide further particulars of the complaint,
- (b) it may conduct an investigation into the complaint,
- (c) it may attempt to resolve the complaint by conciliation,
- (d) it may decline to entertain the complaint (because, for example, the complaint is frivolous, vexatious, misconceived or lacking in substance),
- (e) it may conduct a hearing into the complaint.

6. Conduct of hearings into complaints

Any hearings conducted should ensure procedural fairness is afforded to all parties involved.

Procedural fairness is the right to be given a fair hearing and the opportunity to present one's case, the right to have a decision made by an unbiased or disinterested decision-maker, and the right to have that decision based on logically probative evidence. It should be noted that when dealing with procedural fairness, what is required is a fair hearing, not a fair outcome. It is thus necessary for the process itself, being how a decision is made, to be fair rather than the actual decision.

Hearings are not bound by the rules of evidence and the recognised engineering body may inquire into and inform itself on any matter in such manner as it thinks fit, subject to the rules of natural justice.

Hearings should be conducted as informally as possible and parties are encouraged to represent themselves. The complainant and the person about whom the complaint is made do not require legal representation during attempts to resolve the complaint by conciliation, but may seek legal representation during a hearing into the complaint.

7. What action may be taken after a hearing into a complaint?

After a recognised engineering body has conducted a hearing into a complaint against a person, it may, if it finds the complaint substantiated, do any one or more of the following:

- (a) caution or reprimand the person,
- (b) impose conditions as to the carrying out of professional engineering work by the person,
- (c) require the person to complete specified courses of training or instruction,
- (d) require the person to report as to the carrying out of professional engineering work by the person at the times, in the manner and to the persons specified by the recognised engineering body,
- (e) order the person to obtain advice as to the carrying out of professional engineering work by the person, from such persons as are specified by the recognised engineering body,
- (f) cancel or suspend the recognition or registration of the person as a registered professional engineer.

If the recognised engineering body does not find the complaint substantiated, it should dismiss the complaint.

The recognised engineering body is not entitled to make an award of compensation.

8. Notices of decisions

Within 30 days after a decision is made by a recognised engineering body concerning a complaint, the complainant and the person against whom the complaint is made should be given a written statement of the decision. The statement must include the reasons for the decision.

9. How may the functions of the recognised engineering body under this code be exercised?

A function of a recognised engineering body under this code may, in accordance with a resolution of the recognised engineering body, be exercised by the executive, or by a person or persons appointed for the purpose by the recognised engineering body.

10. Protection from liability

No matter or thing done or omitted by the recognised engineering body or a person acting in accordance with a resolution of the recognised engineering body subjects a member of the executive body of the recognised engineering body or the person so acting personally to any liability if the matter or thing was done or omitted in good faith for the purpose of implementing this code.