



# THE INSTITUTE OF TRAFFIC ACCIDENT INVESTIGATORS

## PROFESSIONAL DISCIPLINARY CODE

### **1. Introduction**

- 1.1. The Institute of Traffic Accident Investigators (ITAI) has published a Code of Professional Practice and Conduct (the Code). Whilst the Code applies to all practitioners, there is a higher degree of expectation on those who have accepted the additional obligations of registration and/or membership of this or any other professional body operating for public benefit.
- 1.2. ITAI has also published its Rules (the Rules) with which all its members are required to comply.
- 1.3. Alleged breaches of the Code and/or Rules can prove to be founded in fact and deserving of action so each shall be investigated by a professional disciplinary committee instituted by the ITAI Council of Management.
- 1.4. The principles of an investigation, and any subsequent disciplinary enquiry are that:
  - a) no one is liable until so found;
  - b) any enquiry will be open and fair; and
  - c) proved breaches of the Code or Rules shall attract outcomes commensurate with the seriousness of the breach.

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- 1.5. The primary purpose of proceedings is not to punish an individual. It is to protect the public, to maintain confidence in the integrity of the profession and to uphold proper standards of professional behaviour.<sup>1</sup>
- 1.6. Any allegation of professional incompetence or violation or infraction of the Code or Rules (the complaint) is to be submitted in writing to the General Secretary of ITAI. This must be after the conclusion of any related Court appearances in which the Subject (of the complaint) might be involved.
- 1.7. The complaint shall be within the first-hand knowledge of the Complainant and will refer specifically to one or more clause(s) in either or both of the Code and Rules.
- 1.8. The Complainant, at his or her own expense, shall obtain and supply to ITAI any substantiating evidence that he or she wishes to rely upon in support of the complaint.
- 1.9. Alternately a serious complaint or criticism of a member that is in the public domain and brought to the attention of Council may also trigger an enquiry, with the costs associated with obtaining the relevant documentation and transcripts bourn by the Institute.
- 1.10. Upon receipt of the supplied documentation, the General Secretary will record the complaint and, without unreasonable delay, pass all material to the Preliminary Investigation Committee.
- 1.11. Any member failing to renew membership or purporting to resign membership during a disciplinary enquiry shall be deemed to remain a member until the termination of the hearing.

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<sup>1</sup> Lord Collins, R (on the application of Coke-Wallis) ~v~ Institute of Chartered Accountants in England and Wales, Supreme Court, 2011

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## 2. Preliminary Investigation Committee (PIC)

- 2.1. The first stage in the resolution of a complaint is a preliminary investigation to determine whether or not there is a case to answer. Such an investigation will be conducted by the Preliminary Investigation Committee (PIC), on behalf of the Council of Management.
- 2.2. The PIC shall comprise one or more Members or Honorary Members of ITAI appointed by the Council of Management. No members of PIC shall be current members of the Council of Management.
- 2.3. The committee shall be serviced by a clerk or secretary (the Secretary), him or herself a Member or Honorary Member of ITAI but, again, not being a member of the Council of Management.
- 2.4. The Secretary shall keep records of all correspondence received by and communicated from the PIC. Minutes of all meetings concerned with discipline and any decisions made shall also be recorded in a way consistent with Data Protection legislation; these will be confidential.
- 2.5. On receipt of a complaint, the Secretary of the PIC will acknowledge receipt of it, in writing, to the Complainant. The Secretary shall also inform the Chairperson of the PIC and the Subject.
- 2.6. Correspondence to the Subject shall be by 'signed for' mail to his or her last known address as advised to ITAI. The Subject will be informed of:
  - a) the event from which the complaint arose;
  - b) a précis of the complaint detail;
  - c) details of all elaborations, substantiating evidence and documentation supplied to ITAI in support of the complaint;
  - d) the specific clause(s) in either or both of the Code and Rules that are alleged to have been infringed;
  - e) the source of the complaint; and
  - f) the procedure to be followed under this Discipline Code.

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- 2.7. The Secretary shall seek what additional elaboration, evidence, documentation and answers that he or she considers necessary from the Complainant, the Subject or any material witness.
- 2.8. When enough information is available, the Secretary shall convene a meeting of the PIC to consider the complaint and the supporting information. Normally, the Complainant and the Subject would not attend, although the Chairman may exercise discretion to the contrary. This meeting may be conducted by an exchange of papers. This is not in itself a judicial activity and is concerned only with (i) the complaint being within the competence of the ITAI to consider, and (ii) that there is enough evidence to justify a hearing.
- 2.9. A finding of “no case to answer” will dismiss the complaint and, to save unnecessary publicity, will not be reported to the Council of Management. Similarly, a withdrawal of a complaint need not be reported. However, a record will be maintained in the minutes of the PIC meeting, albeit that the Subject’s name should be omitted. Both the Complainant and the Subject will be informed, in writing, of the outcome. The General Secretary will be informed that the matter is concluded.
- 2.10. A finding of “case to answer” will require that the disciplinary procedure be activated, and a Disciplinary Committee convened. It shall be the duty of the Secretary to the PIC to inform the Complainant and Subject of proposed further consideration of the complaint. At least twenty-eight days clear notice shall be given to all parties of a hearing unless those parties agree to a shorter period.
- 2.11. If the complaint were about costs or other matters not concerned with professional competence, ITAI would have no authority to enquire into them. However, it could advise the parties to seek mediation or the Complainant to take action in the Courts of Law.

## **3. Disciplinary Committee (DC)**

- 3.1. The Disciplinary Committee (DC) appointed by the Council of Management, comprising a standing Chairperson (who will be a Member or Honorary Member of ITAI and who may chair all disciplinary meetings during his or her period of office), one lay representative who shall not be a member of ITAI, and one practitioner drawn from the ITAI membership. None of those eligible to sit on the DC shall serve concurrently on the PIC, the Appeals Committee or the Council of Management. The DC shall be serviced by the Secretary. A non-voting lawyer (engaged by ITAI) may also be present to guide the process and the tribunal when discussing the evidence.
- 3.2. This DC shall have delegated authority from the Council of Management to examine the complaint, and to decide its outcome and any sanction.
- 3.3. Subjects shall be entitled to bring to the hearing a 'friend' who may be a lawyer whom they will pay to represent them.
- 3.4. Hearings comprise a statement (by the Complainant or a representative appointed for the purpose - such as a paid solicitor) of the complaint and evidence to support it (with any cross-examination of witnesses) followed by a rebuttal (by the Subject or his representative) with evidence (which is also open to cross-examination). Additionally, or alternatively, evidence may be received by means of written statements at the DC's discretion. Parties cannot be forced to attend so, if one or both do not attend, the hearing must rely on at least some exchange of papers.
- 3.5. At the conclusion of the hearing, the DC decides and announces its decision on the justification or not of the complaint. If the complaint is accepted, the DC shall decide an outcome and an appropriate sanction having heard any mitigation.
- 3.6. If the complaint is admitted, the only steps are to hear mitigation and to decide the recommended sanction.

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- 3.7. The Secretary will inform the parties accordingly and notify them of a right to seek leave to appeal. The General Secretary shall also be informed, in writing and with reasons, so that the matter can be reported formally to the next meeting of the Council of Management who will implement the recommended outcome.
- 3.8. Outcomes may be exclusion from membership (including withdrawal of membership card and certificate), suspension of membership with conditions, reassessment and variance of membership grade, or reprimand with advice. Outcomes will be in the form of a written decision to be implemented forthwith.
- 3.9. Unless exceptional circumstances exist, and after a period of twenty-eight days has elapsed since the communication of the decision of the DC, the outcome of a justified complaint will be published, stating:
- a) the name of the member concerned;
  - b) his or her ITAI membership number;
  - c) the date of the hearing; and
  - d) a short summary of the allegation and the finding.

These details shall also be communicated to the Forensic Science Regulator.

- 3.10. If, during the DC's consideration of the enquiry, it becomes clear that a member has knowingly and intentionally misled a Court or otherwise dishonestly influenced a judicial process, the matter will be referred to the appropriate authorities, in accordance with the established laws enacted at that time.

## **4. Appeal Committee (AC)**

- 4.1. If leave to appeal is sought, it must so be done, in writing, within twenty-eight days of the communication of the decision of the DC. The right to appeal shall depend only upon new evidence becoming available since the hearing or an apparent injustice at that hearing.

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- 4.2. The Appeal Committee (AC), if it grants the right of appeal on the grounds put forward, shall either re-hear the matter itself or shall refer it to a newly constituted Disciplinary Panel for a re-hearing. The Secretary shall service the AC.
- 4.3. Its decision shall be communicated to the Council of Management and to the parties by the Secretary.

## **5. Conflicts of Interest**

- 5.1. If the Secretary, Chairperson or any committee member to or of any of the disciplinary committees becomes aware that he or she is conflicted in a particular disciplinary matter, or that his or her position might be perceived as such, then that conflict of interest shall be reported.
- 5.2. The Discipline Secretary shall report such an instance to the Institute's General Secretary who will select and appoint a substitute Discipline Secretary to deal with the case. The Chairperson of the committee that is currently dealing with the matter shall be informed of the substitution.
- 5.3. The Chairperson of the PIC shall report any conflict of interest to the Chairperson of the DC who will either chair the PIC him or herself or refer the matter to the Institute's General Secretary to select and appoint a substitute.
- 5.4. The Chairperson of the DC shall report any conflict of interest to the Chairperson of the AC who will either chair the DC him or herself or refer the matter to the Institute's General Secretary to select and appoint a substitute.
- 5.5. The Chairperson of the AC shall report any conflict of interest to the Council of Management to select and appoint a substitute.
- 5.6. Where a Chairperson of one committee substitutes that of another then, should a matter progress to the next level, that Chairperson may not sit in his or her pre-existing role. Such a situation shall be reported to the Institute's General Secretary to select and appoint a substitute.

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- 5.7. A committee member shall report any conflict of interest to the Chairperson of the committee on which he or she has been invited to sit. That Chairperson shall then select and appoint a substitute.
- 5.8. Should the Institute's General Secretary, upon receiving a complaint or at a future time, find him or herself conflicted then he or she shall refer the matter to the Council of Management and take no further part in the particular discipline issue.
- 5.9. Members of the Council of Management finding themselves conflicted in a disciplinary matter shall declare it to the Council and absent themselves from discussion, correspondence or decision in relation to the matter.