

Complaints and Discipline

Professional Regulation

Engineers Geoscientists Manitoba's mandate includes the review and discipline of persons practising engineering or geoscience in Manitoba. This process allows any person to make a complaint against a practitioner. The complaints and discipline process reviews past practice with the aim of preventing future actions that fall below the standard expected of professional engineers and geoscientists.

The purpose of this document is to provide a general overview of the complaints/discipline process. The information provided below does not include all of the details of the complaints/discipline procedures. Please refer the Act and Bylaws for a comprehensive description of the processes involved.

Compensation

Engineers Geoscientists Manitoba cannot provide compensation to a complainant for damages that may have arisen due to the actions of a registered practitioner. In cases where the complainant seeks compensation for damages, the appropriate avenue is through the public court system. However, a complaint with Engineers Geoscientists Manitoba can proceed in parallel with civil court action.

Process

Initial Review

Complaints are submitted to the Registrar. Once received, a complaint will be reviewed by the Investigation Committee, which is comprised of peers as well as representatives of the public who are not directly affiliated with Engineers Geoscientists Manitoba. The Investigation Committee considers the complaint at their next meeting. The Investigation Committee, in reviewing a new complaint, first determines whether or not to investigate or dismiss the complaint without investigation. This initial review has two distinct elements.

The first is to establish whether or not Engineers Geoscientists Manitoba has jurisdiction. For example, our complaints/discipline process cannot review a complaint against a person who is not registered with Engineers Geoscientists Manitoba.

During the initial review, the Investigation Committee will also apply the following litmus test: "Would the allegations, if proven to be true, constitute professional misconduct or unskilled practice?"

Professional Misconduct or Unskilled Practice

The Engineering and Geoscientific Professions Act defines Professional Misconduct or Unskilled Practice as conduct that:

- a) is detrimental to the public interest;
- b) is conduct unbecoming a professional engineer or professional geoscientist;
- c) is misconduct;
- d) contravenes this Act or the by-laws or the code of ethics;
- e) displays a lack of knowledge of or lack of skill or judgment; or
- f) demonstrates incapacity or unfitness to practise or demonstrates that the person is suffering from an ailment that might, if the person is allowed to continue to practise, constitute a danger to the public;

Investigation

If the Investigation Committee is satisfied that the complaint falls within their mandate, they will investigate the matter. The complainant and the investigated person are notified that an investigation has been initiated. The investigated person is provided a copy of the complaint and is asked to provide a written response. That response is then forwarded to the complainant to provide them the opportunity to provide additional information on the matter.

An investigation may also include the following:

- interviewing the complainant
- interviewing the investigated person
- interviewing other people involved in the matter
- gathering documentation
- engaging an expert to review technical aspects

However, not all investigations include all of the above potential actions.

Once the investigation is complete, the Investigation Committee determines whether they will dismiss the matter or pursue disciplinary options. The complainant and the investigated person are notified if the matter has been dismissed.

Disciplinary Options

If the Investigation Committee decides that there are reasonable and probable grounds that the investigated person's conduct constitutes professional misconduct or unskilled practice, they can:

- issue a formal caution;
- formulate an agreed charge and penalty; or
- forward a charge to the Discipline Committee for a hearing.

Formal Caution: A formal caution is sent to the investigated person. If the member accepts the formal caution in writing, the matter is closed, and the Investigation Committee may publish this decision. If the member does not accept the formal caution, a charge is forwarded to the Discipline Committee for a hearing.

Agreed Charge and Penalty: A proposal is formulated by the Investigation Committee and must be approved by a representative of the Discipline Committee. The proposal for an agreed charge and penalty is sent to the investigated person. If the member does not accept the penalty proposal, a charge is forwarded to the Discipline Committee for a hearing.

Disciplinary Hearing

Where a charge is forwarded to the Discipline Committee, the latter will hold a hearing to review the matter. Hearings are overseen by a panel of Discipline Committee members, at least one of which must be a lay person.

At hearing, legal counsel for the Investigation Committee presents the case for the charge of professional misconduct or unskilled practice. The investigated person or their legal counsel presents their opposition to the charge. Complainants may be asked to serve as a witness but are not required to prove the allegations.

Orders

An investigated person whose conduct constitutes professional misconduct or unskilled practice may face the following sanctions:

- a) reprimand;
- b) suspension for a stated period;
- c) suspension until
 - (i) the investigated person has completed a specified course of studies or obtained supervised practical experience, or
 - (ii) the discipline committee is satisfied as to the competence of the investigated

person;

- d) limitation on the investigated person's practice;
- e) conditions on the investigated person's entitlement to practice;
- f) requirement to pass a particular course of study or satisfy the discipline committee or the council as to the person's competence;
- g) satisfy the discipline committee that a disability or addiction can be or has been overcome;
- h) counselling;
- i) a requirement to waive, reduce or repay money paid to the investigated person;
- j) cancellation of the registration of the investigated person.

In addition, the investigated person may be required to pay costs and fines to Engineers Geoscientists Manitoba.

Publication

Engineers Geoscientists Manitoba, in accordance with the Act, may publish formal cautions or the findings of disciplinary decisions. The decision to publish is based on several factors, including the need to educate all practitioners and the need to protect the public. Publication can be done on the Engineers Geoscientists Manitoba's website, the Keystone Professional magazine, as well as newspapers of public record.

Appeals

The complainant may appeal the decision of the Investigation Committee. Also, an investigated person may appeal the finding of the Discipline Committee. In both cases, the appeal must be made within 30 days of receiving a notice of decision.

Alternative Dispute Resolution

In some cases, alternative dispute resolution (ADR) may be pursued to resolve the matter identified in a complaint. The ADR process may be conducted in parallel with an investigation. For further information, please refer to the ADR policy.

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