



# EXPERT WITNESS INSTITUTE

**THE EXPERT WITNESS INSTITUTE  
MEMBER COMPLAINTS PROCEDURES**

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## 1. BACKGROUND

- 1.1 The Expert Witness Institute (“EWI”) is a membership body dedicated to supporting the proper administration of justice and the early resolution of disputes through high-quality, objective and unbiased expert evidence. It acts as a voice for the expert witness community; championing and supporting experts from all professional disciplines. The EWI functions to encourage, train and educate experts and to enhance and maintain their standards and status.
- 1.2 The EWI is independent of outside commercial interests and is democratic, transparent and fully accountable to its members. It is a non-profit making company limited by guarantee.

## 2. INTERPRETATION

2.1 For the purposes of these Procedures:

- **“Appeal Panel”** means a panel appointed under these procedures to determine an appeal.
- **“Complainant”** means the person or body making a complaint under these procedures.
- **“Complex Misconduct”** means misconduct in a case requiring review of a substantial volume of evidence or additional decision-making capacity because of the seriousness or complexity of the issues raised.
- **“Gross Misconduct”** means misconduct of a particularly serious or grave character such that suspension or expulsion from EWI membership may properly be in issue.
- **“Member”** means a current personal member of the EWI to whom these Procedures apply.
- **“Misconduct”** means a serious breach of the Code of Practice or a serious failure to meet the standards expected of EWI members acting as Expert Witnesses.
- **“Designated Governor”** means the Governor appointed to oversee the complaint in accordance with these procedures.
- **“Tribunal Panel”** means a panel appointed under these Procedures to determine a complaint.
- **“Validity”** means whether the complaint appears to fall within the scope of matters which the EWI may investigate under these Procedures.

### **3. APPLICABLE CODE AND STANDARDS OF PRACTICE**

- 3.1 The EWI and the Academy of Experts' Joint Code of Professional Practice ("the Code of Practice") sets out the standards of professional practice and conduct expected of all EWI members when acting in the course of their duties as an expert witness. Members of the EWI are required to observe the Code of Practice in the course of their work as expert witnesses.
- 3.2 Breach of the Code of Practice or any part of it may provide grounds for complaint and may result in disciplinary action being taken by the EWI under these Procedures. The Code of Practice is included at Appendix 1 to these Procedures.
- 3.3 The Code of Practice should be read alongside the EWI's Membership Rules which provide further clarification of the expected standards of professional conduct expected of members. The Membership Rules are included at Appendix 2 to these Procedures.

### **4. PURPOSE OF THESE PROCEDURES**

- 4.1 The purpose of these Procedures is to provide a method of enforcing the Code of Practice and the Membership Rules and to provide a framework for dealing with complaints made against members.
- 4.2 These procedures are intended to be transparent, proportionate and to ensure fairness to all parties when dealing with complaints against members and appeals against decisions made under the Procedures.
- 4.3 These procedures do not apply to complaints about EWI's own services, training, administrative decisions, allocation of work or referrals, membership decisions, or other internal operational matters, which will be dealt with under any separate EWI complaints or governance processes.

### **5. REMIT**

- 5.1 The Institute takes the conduct of its members very seriously. However, it is important to remember that the EWI is a membership body and does not have any regulatory functions. The remit of the EWI is limited to investigating complaints for the purpose of establishing whether a Member has breached the Code of Practice and considering whether any disciplinary sanctions should be imposed. While serious breaches of the Code of Practice may result in removal of a Member from its membership, the EWI has no power to prevent a person from engaging in further work as an expert witness outside of its purview.

### **6. WHO MAY MAKE A COMPLAINT**

- 6.1 A complaint against the conduct of an existing EWI member may be made by any person with a direct connection with the matter, case or claim in respect of which the member's alleged misconduct relates. This may include the lay client, instructing solicitor, the

instructed barrister, a member of the judiciary who dealt with the case at any stage, or the client, solicitor or barrister on the other side of the case.

- 6.2 If the Board or a member of the EWI Staff become aware of an issue with the conduct of a member in their practice as an Expert Witness (for example, as a result of criticisms made by a judge in court) the Board of Governors reserves the right to nominate an individual to bring a disciplinary complaint against that member. That individual should submit a complaint in line with the process detailed in Section 7 and it will be handled in the same way as any other complaint.
- 6.3 No person shall take part in the investigation, determination or appeal of a complaint if they have had prior material involvement in the complaint, including any involvement in a decision to nominate a person to initiate the complaint under this section.

## **7. COMPLAINTS THAT MAY BE INVESTIGATED UNDER THESE PROCEDURES**

7.1 The Expert Witness Institute will only look into complaints about aspects of the conduct of one of its current members with regard to his or her duties as an expert witness. The complaint must relate specifically to an alleged breach of the Code of Practice and must be sufficiently serious to be capable, if proved, of amounting to misconduct or gross misconduct. Alleged conduct which was merely negligent will not normally be investigated under these proceedings.

7.2 The Institute will investigate, for example:

- complaints that a Member acted in a manner which compromised or impaired, or was likely to compromise or impair their independence, impartiality, objectivity or integrity as an expert;
- convictions or determinations or sanctions imposed by a regulatory body which are said to damage the good repute of the expert or of expert witnesses generally;
- criticisms of a Member made by a judge which relate to their conduct as an expert witness;
- complaints that a Member breached their duty to the court or tribunal;
- non-compliance with applicable rules;
- alleged breaches of confidentiality;
- inappropriate payment arrangements or conflicts of interest;
- lack of adequate indemnity insurance;
- misleading publicity

7.3 The EWI cannot investigate complaints made:

- against Affiliate Members, Honorary Fellows, Corporate Members, Corporate Partners, or Supplier Partner or complaints;

- against an expert who is no longer a practising member of EWI;
- about a member's general fitness to practice in their underlying profession. Such matters should normally be reported to the member's primary professional or regulatory body.
- concerning mere disagreement with a member's professional opinion or methodology adopted in a particular case.

7.4 The EWI will also not normally investigate complaints:

- where the case is ongoing;
- which ask the EWI to make a judgment on a point of law (eg. Breach of contract);
- made anonymously;
- made prior or during litigation or pending or potential litigation regarding the case or expert services.

7.5 If there is a complaint about a Corporate Member or Corporate Partner, the Institute will advise what types of complaint may be investigated in that context.

7.6 Where related court, disciplinary or other proceedings are ongoing, the EWI may defer consideration of the complaint, in whole or in part, until those proceedings have concluded, unless fairness, public protection or the proper administration of the complaint process require earlier action.

## **8. COMPLAINTS PROCESS**

8.1 Any complaint about the conduct of a member should be submitted using the online Member Complaint form (or a Word version of the form where the Complainant is unable to use the online version). The online form requires the Complainant to provide their details, identify the complaint, the relevant alleged breaches, and the supporting facts and examples relied upon.

8.2 Only complaints submitted via these methods will be considered.

8.3 Complaints will be acknowledged within 3 working days.

### **Validity Assessment**

8.4 Within 7 calendar days of receipt of a complaint, the Chief Executive Officer (or a suitable nominee or committee appointed for that purpose) will assess the validity of the complaint.

8.5 If the complaint is not deemed valid, the Complainant will be informed in writing, with reasons, why the complaint cannot be investigated.

8.6 The Complainant may object to a declaration of invalidity and provide reasons along with any supporting evidence within 28 calendar days.

- 8.7 Any objection to a declaration of invalidity shall be considered by a person not involved in the original decision, appointed by the Chair or the Board for that purpose.
- 8.8 The outcome of that review shall be notified within a further 28 calendar days of receipt of the objection and shall be final within the EWI's internal procedures.
- 8.9 If the complaint is deemed valid, the Chief Executive Officer (or a suitable nominee or committee appointed for that purpose) will appoint a Designated Governor to oversee the complaint.

### **Detailed Complaint**

- 8.10 The Complainant will be required to submit a detailed complaint, within 21 calendar days, setting out:
- the nature of the matter in which the member was instructed,
  - full details of the circumstances of the complaint, and
  - sufficient detail to enable the Institute and the EWI and the Member to understand the precise allegations of misconduct being made.
- 8.11 A copy of the detailed complaint and any supporting evidence will be sent to the Member concerned within 7 calendar days.
- 8.12 The Member must respond to the complaint, fully and in writing, within 21 calendar days of being sent the complaint.
- 8.13 A copy of the Member's response will be sent to the Complainant, who will have 7 calendar days to provide any reply.
- 8.14 Following expiry of that period, all documentation will be passed to the Designated Governor.

## **9. INITIAL REVIEW AND CASE MANAGEMENT**

- 9.1 Within 21 calendar days of receiving the detailed complaint, response and any reply, the Designated Governor will complete an initial review within to determine whether any further information is required.
- 9.2 If further information is requested, the relevant party or parties must respond, fully and in writing within 14 calendar days of being sent the request.
- 9.3 If no further information is required, the Designated Governor or Tribunal Panel will proceed to their full review, which will be completed within 21 calendar days.

### **Interim suspension**

- 9.4 If the Designated Governor considers that the allegation, if made out, would amount to Gross Misconduct, consideration shall be given to whether the Member should be suspended pending the investigation and determination of the complaint.

- 9.5 The Member may be suspended pending determination of the complaint where the Designated Governor considers that such suspension is necessary for public protection, or in public interest, including where necessary to maintain confidence in expert witnesses, in the administration of justice, or to maintain the reputation and integrity of EWI membership.
- 9.6 The Member will be provided with written reasons as to the interim suspension decision.
- 9.7 The Member may object to the decision and provide reasons along with any supporting evidence within 28 calendar days.
- 9.8 An objection to an interim suspension decision shall be considered by a person not involved in the original decision, appointed by the Chair or the Board for that purpose.
- 9.9 The outcome of that review shall be notified within a further 28 calendar days of receipt of the objection and shall be final within the EWI's internal procedures.

#### **Appointment of a Tribunal Panel**

- 9.10 Where Gross Misconduct is alleged or interim suspension is being considered, the Designated Governor shall also consider whether the complaint should be determined by a Tribunal Panel.
- 9.11 Where allegations are of such a serious or grave nature that, if proved, they are capable of amounting to Gross Misconduct, the complaint shall ordinarily will be referred to a Tribunal Panel, unless the Designated Governor considers, or both parties agree, that the complaint can appropriately be dealt with by a Designated Governor.
- 9.12 Cases amounting to Complex Misconduct may likewise be referred to a Tribunal Panel.
- 9.13 A Tribunal Panel shall ordinarily comprise the Designated Governor and a minimum of two members of the Board appointed for that purpose. No person may sit on the Tribunal Panel if they have had prior material involvement in the complaint or any actual or apparent conflict of interest.
- 9.14 Decisions by a Tribunal Panel shall be made by majority and, in the event of equality of votes, the Designated Governor shall have a casting vote.

#### **Notification of preliminary case management decisions**

- 9.15 The Complainant and the Member will be informed of any case management directions and will be provided with written reasons.
- 9.16 The parties have a right to request a review of case management decisions concerning interim suspension, the appointment of a Panel and/or the hearing of oral evidence. Any party requesting a review must do so in writing, supported by reasons and any relevant evidence, within 28 calendar days.
- 9.17 A review of preliminary case management decisions shall be considered by a Panel or committee appointed by the Chair or the Board for that purpose. No individuals who were involved in any material degree in the complaint or in the original decision may participate in the review.

9.18 The outcome of the review shall be notified within a further 28 calendar days of receipt of the objection and shall be final within the EWI's internal procedures.

## **10. HEARING OF THE COMPLAINT**

10.1 The investigation procedure will normally be by documents only.

10.2 Where Gross Misconduct or expulsion are realistically in issue, the Designated Governor or Tribunal Panel shall consider whether an oral hearing or oral representations are required in the interests of fairness.

10.3 Where an oral hearing is considered necessary, the Designated Governor or Panel may give such case-management directions as are considered appropriate.

### **Decision making**

10.4 In determining the complaint, the Designated Governor or Panel shall:

- make findings of fact on the balance of probabilities;
- determine whether, on the facts found, the Code of Practice or Membership Rules have been breached;
- determine whether any such breach amounts to Misconduct or Gross Misconduct; and
- if so, decide what sanction, if any, should be imposed.

10.5 Where the complaint is dealt with by a Tribunal Panel, the panel will aim to reach a decision by consensus. Where this is not possible decisions will be reached by a simple majority of panel members.

10.6 Following the investigation, the Complainant and the Member will be informed in writing of the result of the complaint and of any sanctions (if appropriate) outlining the reasons for the decision.

## **11. FAILURES TO COMPLY WITH THE PROCESS**

11.1 A failure by a party to comply with these Procedures, any time limits or requests for information, may result in:

- the complaint being rejected where the Designated Governor or Tribunal Panel is satisfied that the Complainant has, without reasonable excuse, failed to comply with the process in a material respect;
- the matter being determined on the material available; or
- reasonable inferences being drawn by the Designated Governor or Tribunal Panel from a failure to provide requested information.

## 12. SANCTIONS

12.1 In cases where the complaint is upheld or partially upheld, the Designated Governor or Tribunal Panel will decide on the sanction, if any, to be imposed. The following table provides guidance for the Designated Governor, Tribunal Panel or Appeals Panel in considering the most appropriate sanction given the outcome of a complaint against a member.

12.2 The requirement to undertake further or fresher training or assessment can be imposed as a standalone sanction or in combination with another sanction.

### Sanctions Guidance

12.3 The primary reasons for imposing disciplinary sanctions under these Procedures are:

- To support the proper administration of justice
- To promote and uphold the high standards of practice and status of EWI members and the expert witnesses generally;
- To maintain confidence in the integrity of EWI membership, in expert witnesses generally, and in the proper administration of justice;
- To protect the public and otherwise act in the public interest.

Available sanctions	Guidance for use
No disciplinary action	<ul style="list-style-type: none"> <li>• Notwithstanding a finding of misconduct, it is considered appropriate not to impose a disciplinary sanction</li> <li>• No evidence of Gross Misconduct</li> <li>• Conduct has been remediated</li> <li>• Remorse/insight</li> <li>• No actual harm or risk of harm to the interests of justice, to the public interest or to the good repute of EWI.</li> </ul>
Reprimand or formal warning	<ul style="list-style-type: none"> <li>• Misconduct</li> <li>• Isolated incident</li> <li>• No previous history of complaints</li> <li>• Behaviour was not deliberate</li> <li>• Remorse/insight</li> <li>• Conduct has been remediated</li> <li>• No actual harm or low risk of harm to the interests of justice, to the public interest or to the good repute of EWI.</li> </ul>
Requirement to undertake further or refresher training and/or assessment	<ul style="list-style-type: none"> <li>• Misconduct</li> <li>• Conduct is considered to be remediable through additional training.</li> <li>• Behaviour was an isolated incident/no history of complaints</li> </ul>

	<ul style="list-style-type: none"> <li>• Behaviour was not deliberate</li> <li>• Low risk of harm</li> </ul>
A reduction in membership grade	<ul style="list-style-type: none"> <li>• Misconduct or Gross Misconduct</li> <li>• Previous history of complaints against the member</li> <li>• The matter can appropriately be dealt with by reducing the membership grade of the Member</li> </ul>
A period of suspension of membership  (Standalone or whilst training or remedial action has been undertaken.)	<ul style="list-style-type: none"> <li>• Misconduct or Gross Misconduct</li> <li>• Dishonesty</li> <li>• Previous history of complaints against the member</li> <li>• Additional training should resolve the issue but the member should not be represented on our directory until training has been completed.</li> <li>• EWI is notified by the member's professional regulatory body or by the complaint that they have been suspended or struck off by their professional or regulatory body for an issue which relates to their ability to give expert evidence.</li> <li>• Some harm caused or risked</li> </ul>
Expulsion from the Institute	<ul style="list-style-type: none"> <li>• The case is upheld</li> <li>• Gross Misconduct</li> <li>• Serious dishonesty / concerns about Integrity</li> <li>• Deliberate or serious breach of court procedures, directions or rules</li> <li>• Serious harm risked or caused</li> <li>• Conduct so serious that it is considered fundamentally incompatible with EWI Membership and not imposing this sanction would damage the good repute of the Institute</li> <li>• Previous history of relevant complaints</li> <li>• Lack of remorse / insight</li> <li>• EWI is notified by the member's professional regulatory body or by the complaint that they have been suspended or struck off by their professional or regulatory body for an issue which relates to their ability to give expert evidence.</li> </ul> <p>Any member who is erased from membership will not be entitled to reapply to EWI for a period of three years from the date of termination.</p>

12.4 When deciding what, if any, sanction to impose, the Designated Governor or Tribunal Panel shall take a proportionate approach and balance the nature and seriousness of the

findings against the interests of the Member concerned, together with any aggravating and mitigating factors.

12.5 Where a reduction in membership grade, suspension or expulsion is under consideration, the Member concerned shall be notified and given a reasonable opportunity to make representations on sanction before any final decision is made.

12.6 A list of non-exhaustive examples of mitigating and aggravating factors are provided in the table below:

Examples of Mitigating factors	Examples of Aggravating factors
<ul style="list-style-type: none"> <li>• First offence</li> <li>• Genuine error/mistake</li> <li>• No detriment to complainant</li> <li>• Complications/delay outside expert’s control</li> <li>• No previous issues raised about member/member has demonstrated though a recent application or work understanding of the issue</li> <li>• Steps have been taken to address the issue</li> <li>• Member has already undertaken or has taken steps to undertake training relating to the issue</li> </ul>	<ul style="list-style-type: none"> <li>• Detriment to complainant</li> <li>• Refusal to engage with initial complaint or the EWI process</li> <li>• Member has been subject to similar complaints</li> <li>• Breach of trust/confidentiality</li> <li>• False/misleading statements made</li> <li>• Concealing facts from EWI</li> <li>• Lack of integrity</li> <li>• Dishonesty</li> </ul>

12.7 The reasons for the sanction chosen shall be provided to the parties in writing along with any aggravating or mitigating factors that were taken into account when imposing a sanction.

### 13. REPORTING AND PUBLICATION OF FINDINGS

13.1 Where a complaint is upheld and the findings disclose Misconduct or Gross Misconduct of a kind that may call into question the Member’s wider professional conduct, honesty, integrity, or fitness to practise, the Board shall also consider whether the findings should be reported to the Member’s professional or regulatory body.

13.2 The Board also has the power to decide whether and how the decision and any sanction is to be made public. In deciding that issue, fairness, proportionality, confidentiality obligations and the legitimate interests of the Institute, the Complainant, the Member and the public should be taken into account.

13.3 The parties shall be given notice and a reasonable opportunity to make submissions before final decisions on the reporting or publication of findings are made.

13.4 The written decision and reasons will be provided to the parties within 14 calendar days of any final decision being made.

#### **14. APPEALS PROCESS**

14.1 The Complainant or Member may submit an appeal within 42 calendar days from the notification of the outcome of the original complaint.

##### **Grounds of Appeal**

14.2 The EWI will only consider the following grounds for appeal:

- An unreasonable finding which materially affected the outcome;
- There was a departure from these procedures which materially affected the fairness or outcome of the original decision;
- New and material evidence has come to light that could not reasonably have been provided at the time of the original decision and which materially affects the findings and/or sanction;
- The sanction imposed was unreasonable or clearly disproportionate having regard to the findings, the sanction guidance, and any relevant mitigating or aggravating factors.

##### **Appeal procedure**

14.3 Any appeal should be submitted in writing and should clearly set out the grounds for the appeal with supporting evidence.

14.4 The appeal will be referred to the Board of Governors to be dealt with. Where the complaint was reviewed by the Designated Governor, the Appeal Panel shall comprise not fewer than three eligible members of the Board. Where the complaint was reviewed by a Tribunal Panel, the Appeal Panel shall comprise not fewer than three and, where reasonably practicable, five.

14.5 A member of the Board shall not sit on an Appeal Panel if they have had prior material involvement in the complaint, have any actual or apparent conflict of interest, or are otherwise unable to determine the appeal impartially.

14.6 The Appeal Panel will be provided with the original complaint, the response, any further material considered at first instance, the documented outcome, the notice of appeal and any supporting material lodged in support of the appeal.

14.7 The Appeal Panel shall complete an initial review of the appeal within 21 calendar days to determine whether further information is required. If not, it will proceed to a full review. If further information is requested, the relevant party must respond in writing within 14 calendar days unless an extension is granted.

##### **Evidence, Decision-making and Powers on Appeal**

14.8 Appeals will ordinarily be determined on the documents and written submissions. Nor is the appeal a re-hearing of the original complaint.

- 14.9 The Appeal Panel retains a discretion to direct that evidence or submissions be heard at an oral hearing, where it considers it necessary in the interests of fairness. This may be the case, for example, where the appeal is based on fresh evidence and/or where Gross Misconduct, expulsion, suspension or reporting to a professional regulator is realistically in issue.
- 14.10 Following its review of the evidence and/or submissions, the Appeal Panel must determine whether one or more of the grounds of appeal are made out. If so, the appeal shall be allowed. If not, then the appeal will be dismissed.
- 14.11 The Appeal Panel may dismiss the appeal, allow it in whole or in part, confirm the original findings and/or sanction, substitute a different finding or sanction permitted by these procedures, remove a sanction, or take no further action
- 14.12 If the Appeal Panel is considering imposing a more serious sanction than that originally imposed, the member shall be given notice of that possibility and a reasonable opportunity to make submissions before a final decision is made.
- 14.13 Decisions of an Appeal Panel shall be made by majority. In the event of equality of votes, the chair shall have a casting vote.
- 14.14 The Appeal Panel shall give its decision and reasons in writing.

#### **15. TIME LIMITS AND PROCEDURAL FLEXIBILITY**

- 15.1 The Chief Executive Officer, Designated Governor, Tribunal Panel or Appeal Panel (as applicable) may extend any time limit under these procedures where satisfied that it is fair and proportionate to do so.

#### **16. COMING INTO FORCE**

- 16.1 These rules come into force with effect from 8<sup>th</sup> June 2026.
- 16.2 Only complaints received after that date will be subjected to these rules.

## **APPENDIX 1 – JOINT CODE OF PROFESSIONAL PRACTICE**

All members of the Expert Witness Institute agree to abide by the EWI and TAE Joint Code of Conduct and the EWI Membership Rules.

### **Expert Witness Institute and The Academy of Experts Joint Code of Conduct**

The EWI and Academy agreed this 'joint' Code and have adopted it so that it applies to members of either organisation. We believe this is a positive step towards the raising and policing of higher standards for all Experts.

This code of Practice should be followed by all members. It may also be considered Best Practice for other Experts both in England & Wales and around the world.

The Code was endorsed on 22nd June 2005 by Rt Hon Lord Phillips of Worth Matravers Master of the Rolls & Chairman of the Civil Justice Council and again on 26th June 2006 the Code was endorsed by the Master of the Rolls, Rt Hon Sir Anthony Clarke and the President of the Queens Bench Division, Rt Hon Sir Igor Judge for use in Criminal proceedings.

### **Preamble**

This Code of Practice shows minimum standards of practice that should be maintained by all Experts.

It is recognised that there are different systems of law and many jurisdictions in Europe, any of which may impose additional duties and responsibilities which must be complied with by the Expert.

There are in addition to the Code of Practice, General Professional Principles with which an Expert should comply.

These include the Expert:

- Being a "fit and proper" person
- Having and maintaining a high standard of technical knowledge and practical experience in their professional field
- Keeping their knowledge up to date both in their expertise and as Experts and undertaking appropriate continuing professional developments and training.

## The Code

1. Experts shall not do anything in the course of practising as an Expert, in any manner which compromises or impairs or is likely to compromise or impair any of the following:
  - i. the Expert's independence, impartiality, objectivity and integrity,
  - ii. the Expert's duty to the Court or Tribunal,
  - iii. the good repute of the Expert or of Experts generally,
  - iv. the Expert's proper standard of work,
  - v. the Expert's duty to maintain confidentiality.
2. An Expert who is retained or employed in any contentious proceeding shall not enter into any arrangement which could compromise his impartiality nor make his fee dependent on the outcome of the case nor should he accept any benefits other than his fee and expenses.
3. An Expert should not accept instructions in any matter where there is an actual or potential conflict of interests. Notwithstanding this rule, if full disclosure is made to the judge or to those appointing him, the Expert may in appropriate cases accept instructions when those concerned specifically acknowledge the disclosure. Should an actual or potential conflict occur after instructions have been accepted, the Expert shall immediately notify all concerned and in appropriate cases resign his appointment.
4. An Expert shall for the protection of his client maintain with a reputable insurer proper insurance for an adequate indemnity.
5. Experts shall not publicise their practices in any manner which may reasonably be regarded as being in bad taste. Publicity must not be inaccurate or misleading in any way.
6. An Expert shall comply with all appropriate Codes of Practice and Guidelines.