

cabe

chartered
association
of building
engineers

Complaints & Disciplinary Procedures

cbuilde.com

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 **cabe** Guide



About this document

1. This guidance document sets out a summary of how we, the Chartered Association of Building Engineers ('CABE'), will deal with any complaint received about the conduct and/or competence of our members from 1 August 2019.
2. Full details concerning our complaints and disciplinary process can be found within [CABE's Disciplinary Procedure](#).

Matters within CABE's scope to investigate

3. We have the authority and power to investigate building engineers that are members of our organisation.
4. Members of our association are identifiable through their use of the following designations:
 - Student Member – **N/A**
 - Technician Member – **Tech CABE**
 - Associate Member – **ACABE**
 - Graduate Member – **Grad CABE**
 - Chartered Member – **MCABE**
 - Chartered Building Engineer – **MCABE Chartered Building Engineer**
 - Fellow Chartered Building Engineer – **FCABE**
5. If you are unsure as to whether a building engineer is a member of CABE please feel free to enquire with us via our [contact form](#) or via telephone on **01604 404121**. We will let you know if a person is a member and what their membership grade is but cannot, however, provide any personal information about them.
6. We can investigate complaints which relate to a member's conduct or competence and in doing so will seek to establish whether they have met the standards set out within the relevant iteration of our Code of Professional Conduct ('the Code') that applied at the time of the alleged misconduct and/or incompetence. It is the [Code of Professional Conduct](#) which applies to circumstances which began on or after **15 May 2019**.



7. A non-exhaustive list of matters which fall outside the scope of CABE's disciplinary process include:
- complaints against individuals who are not CABE Members (unless they are falsely claiming to be a current member)
 - complaints against persons who have ceased to be a Member of CABE prior to us receiving your complaint (unless they are falsely claiming to be a current member)
 - requests for CABE to make a determination on whether a Member has acted negligently, which is a matter for the courts to decide
 - requests for CABE to act as a mediator or arbitrator
 - requests for CABE to interfere with, or become involved in, court action that has been issued by or against a member
 - complaints against organisations or companies, rather than their employees or those individuals that own or operate them (i.e. Company Directors); and/or
 - complaints against CABE Members that concern most employment matters, these include but are not limited to the following;
 - a. unfair dismissal
 - b. breach of employment contract
 - c. discrimination in the workplace.

How to lodge a complaint

8. Whilst Members of the CABE are expected to and should strive to always comply with the CABE Code of Professional Conduct and the Guide to Ethical Professionalism, not every failing to comply with the Code will necessitate a disciplinary investigation. For an investigation to commence the allegation of misconduct must be sufficiently serious in that the Members failing has caused substantial impact whereby it warrants investigating to protect the interests of the public.
9. In some circumstances and where deemed appropriate by CABE, where an allegation of misconduct does not meet the criteria of forming or being included in a disciplinary investigation, CABE may opt to choose informal routes of resolution by bringing the matter to the Members attention to remind them of their obligations under the Code.
10. We would normally expect complaints to be made within 12 months of the alleged breach(es), however, we reserve the right to consider substantial complaints made outside of this period.
11. Complaints can be lodged by non-members and Members of CABE. Further, in exceptional circumstances, CABE's Board of Directors may also bring a complaint.
12. We recommend that in the first instance the aggrieved party ('the Complainant') should try to resolve their concerns with our Member, prior to sending CABE a complaint. Our Members are required to deal with any complaints they receive under a complaint handling procedure and any failure to do so could, in and of itself, evidence a breach of the Code. We will, however, still investigate complaints that have not been raised first with the Member.
13. Normally, a complaint must be made in writing and we request that in the first instance complaints be lodged via our online [complaints form](#) to ensure that we receive the key information required to commence our investigations.
14. If it is not possible for a complaint to be submitted in writing, or you find writing difficult, we can take an account of your complaint over the phone and prepare a written summary of the complaint on your behalf. In such circumstances we would then send the summary back to you to ensure that it accurately reflects the information provided, prior to commencing our investigations.



How does CABA determine whether a complaint is successful?

Preliminary investigation

15. Once we are satisfied that we have the authority to investigate a complaint, we will write to the Complainant to set out a summary of our complaints process to request that specified information/documents be supplied as well as anything else the Complainant believes would corroborate their complaint. This may include, for example, reports, drawings, quotes, terms and conditions, correspondence, and appointment forms. It is the Complainant's responsibility to supply the evidence to support their complaint.
16. Copies of any evidence or correspondence submitted by the Complainant will normally, in the interests of fairness and transparency, be made available to the Member during the second stage of the investigation should it be determined that there is sufficient merit to progress the complaint to that stage (see below).
17. We will seek to determine, as soon as reasonably practicable, whether there are sufficient grounds to proceed with our investigations and make contact with the Member. If it is determined that there are insufficient grounds, CABA will end its investigation and inform the Complainant of the same in writing.

Second stage investigation

18. Usually, CABA will not notify a Member that a complaint has been lodged until the investigation proceeds to this stage of the investigation. It is at this stage that your identity will normally be disclosed to the Member. It is a well-established principle of law that individuals have the right to know who has made a complaint against them.
19. We will provide the Member in question with formal notice that a complaint has been lodged and provide them with a Preliminary Case Summary which will detail the following:
 - the identity of the Complainant
 - which iteration of our Codes of Conduct and Disciplinary Procedures apply
 - the specific provisions of the Rules/Code of Professional Conduct which are alleged to have been reached
 - detail the allegations that have been made; and
 - a request for the required to provide a written response and any supporting evidence of their own.

We will also make the evidence supplied by the complainant available for the member's consideration.

20. We will assess the Member's response (and any evidence/documents supplied) and may then seek any further clarification, information and/or documents that we determine is required, from either party, in order to understand whether the matter ought to be referred for determination by a Disciplinary Panel. If we establish from the available evidence that there is no case to answer then we will write to both parties to advise that the investigation will be closed.
21. If we determine that there is sufficient evidence to establish that there is a case to answer, we will prepare a summary of the complaint which will (alongside each parties respective evidence) be referred to a Disciplinary Panel which will be convened from the membership of our Professional Conduct Committee. A referral to the Disciplinary Panel does not imply that we believe that the case is proven.
22. CABA reserves the right to reopen an investigation into a previously closed complaint, whether concluded at the preliminary investigation stage or the second stage investigation, if new evidence comes to light. In such instances, both the Complainant and the Member will be notified at the earliest opportunity.



Disciplinary Hearing

23. Where a hearing is to take place, we will provide both parties with access to a bundle of documents (containing the evidence submitted by both parties) and will advise them whether their attendance is required at the hearing to put their case to the Disciplinary Panel (Hearing in Person) or whether the Disciplinary Panel will be reaching its conclusion on the basis of the evidence alone (Paper-based Hearing). Parties may choose to be represented at a Hearing in Person by a legal adviser.
24. For a Paper-based Hearing, we will produce a Case Summary which will summarise the facts of the case and highlight the key evidence disclosed and will provide a copy of the same (in addition to the full evidence bundle) to the parties no later than 28 days prior to the hearing. The evidence bundle will consist of all documents that the parties have submitted in support of their position. After receiving the summary, the parties may provide a final written statement for the Disciplinary Panel to consider. The Disciplinary Panel will make its final judgment on the basis of the Case Summary, evidence bundle and the final statement of the parties.
25. For a Hearing in person, the parties will be invited to attend the hearing (and may have someone attend to provide moral support) to present their case to the Disciplinary Panel, prior to it reaching a determination on the complaint in private. Where this format of hearing is chosen, the parties will be issued with further guidance on the structure of the hearing. The parties will also be provided with the full evidence bundle no later than 28 days prior to the date of the hearing. It is important for the parties to attend the scheduled hearing as in their absence, any new information, assertions and/or evidence put forward by the other party might be accepted by the Disciplinary Panel due to it being unchallenged. It is therefore important that if either party is unable to attend a scheduled Hearing in Person that we are advised of the same in writing as soon as possible. Where we receive the appropriate notification we will consider postponing the hearing and/or altering the hearing format (including, but not limited to, the use of video conferencing software).
26. Neither party will be reimbursed for any expenses or costs that they incur during the investigation of a complainant and/or in attending a CABA Hearing.
27. CABA will notify the parties of the outcome of a hearing to the parties after the hearing as soon as possible after the Disciplinary Panel's recommendations have been ratified.

Time-line for completion of a disciplinary enquiry

28. The length of time it will take for a disciplinary enquiry to conclude will vary from case to case due to variation in the number of information requests required in any given investigation and the amount of time taken by the parties to supply their response to the same.
29. The progress of our investigations will also be affected where the matters complained of are also subject to legal proceedings or investigation by a body with superior disclosure powers. In such circumstances, CABA will normally suspend its own investigation of the Complaint until that process has concluded, unless there are public interest reasons which demands more immediate action.
30. During the normal course of events, it will typically take 9-12 months from the date of receiving a complaint for a matter (that progresses that far) to be referred for a Disciplinary Hearing. It can take longer than this in some circumstances, however. It may also be completed more quickly.
31. Once referred, and subject to the agreement of the PCC Chair, matters are listed to be determination at Disciplinary Hearings, which are typically scheduled in March, July and November each year.

Is the process confidential?

32. CABA are committed to protecting the confidentiality and reputation of both parties and will only make a complaint public if a finding of misconduct is made at a hearing.



33. We expect all parties involved in the disciplinary process to exercise the same level of discretion with respect of the details of the case until after the conclusion of the matter.

What sanctions can CABE impose?

34. The sanctions available to CABE's Disciplinary Panel are to:

- issue the Member with a formal warning (Reprimand) and require them to undertake further training and/or some other direction, which will aim to ensure the Member avoids future misconduct
- require the Member to provide CABE with an undertaking in writing that they will refrain from continuing or repeating the misconduct
- suspend the Member until they complete applicable training and/or other measures as the Disciplinary Panel believes to be necessary
- impose a reduction of a Member's membership grade until they have completed applicable training and/or other measures as the Disciplinary Panel; and/or
- expel the Member from the Association, so the member will not be able to advertise themselves as members of CABE nor use the designations listed in paragraph 4.

35. Please see our [Sanctions Guidance](#) for further details concerning the matters which the Disciplinary Panel will consider in determining which sanction it is appropriate to apply in circumstances where it determines that a CABE member is liable for misconduct.

36. The Disciplinary Panel, irrespective of whether it imposes a sanction on the Member, retains the discretion to issue written advice to them to encourage and foster future compliance with the CABE Code of Professional Conduct.

Appeals

37. Both the Complainant and the Member in question have the right to seek permission ('leave') to Appeal against any decision reached by CABE's Disciplinary Panel, as set out in [CABE's Disciplinary Procedure](#).

38. We will provide further guidance on our appeals process when contacting the parties to advise them of the outcome reached by the Disciplinary Panel.

Publication of Disciplinary Hearings

39. Where a complaint results in sanctions being imposed on a member, details of the hearing's outcomes will usually be published in one issue of CABE's [Building Engineer](#) journal and on the [CABE Website](#).

40. If the member concerned is also registered with the Engineering Council, then CABE will also notify them of the sanctions that have been imposed.

41. Further information concerning our publication/notification of hearing outcomes, including details of the exceptional circumstances under which the same may not occur, can be found in our [Publication Policy](#).

Any further questions?

42. Please feel free to contact the Preliminary Investigations Panel via complaintshandling@cbuide.com



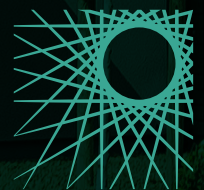
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We're here to help

If you have any queries about the **CABE Complaints & Disciplinary Procedures**, please contact us. You can also find out further information at cbuilde.com

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