

HANDLING OF COMPLAINTS ON VIOLATION OF CODE OF ETHICS



**CONSULTING ENGINEERS
ASSOCIATION OF INDIA**

Creating Value Ethically for Engineers

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HANDLING OF COMPLAINTS ON VIOLATION OF CODE OF ETHICS

1.0 CODE OF ETHICS

1.1 Purpose

The Consulting Engineers Association of India (CEAI) framed and introduced a Code of Ethics many years back and revised it in September 2013, with a view to ensure that the members of CEAI maintain, besides high technical standards, highest universally accepted moral and ethical standards as well. It is mandatory for all members of CEAI from all categories to follow each and every canon of the Code of Ethics.

The importance of an Ethical Code for a professional body cannot be underestimated. The Code of Ethics serves as a framework and a guide for professionals in support of day to day decision making regarding professional conduct. It also serves to clarify the CEAI's mission, values and principles. Its enforcement would result in generating respect for the profession and enhance its credibility.

1.2 Genesis of Code of Ethics

The Code of Ethics has been developed and maintained as an inspirational document defining the boundaries within which members of the CEAI must operate while carrying out their professional practice. The Code does not contain solutions to specific situations or problems but is designed to provide guidance to members in performing their tasks in a dignified and professional manner. It reflects what professionals value, and establishes expectations based on principles of duty, fairness and responsibility. It is intended to ensure the welfare and legitimate interests of the customer, the society and to enhance the reputation and integrity of the profession.

The Code of Ethics is meant to inspire members to achieve and maintain the highest level of competence, and to behave in a manner that would maintain the highest standards of integrity and ethical principles. The inspirational behaviour is not intended to be discretionary but is expected of all members. The CEAI is committed to the enforcement of its Code of Ethics. Self-regulation is important in order to build trust and respect for the profession and, enforcing the Code provides additional incentives for individuals to choose to do the right thing.

1.3 Fundamental Canons

The Code of Ethics is primarily based on the following canons:

- Responsibility to society
- Responsibility to profession
- Competence
- Integrity
- Impartiality
- Relation with other consultants
- Relation with clients
- Relation with employees

2.0 ETHICS COMMITTEE

2.1 Formation of Ethics Committee

2.1.1 With a view to enforce the Code of Ethics amongst members, an Ethics Committee (EC) shall be formed by the Governing Council (GC). Its tenure shall synchronize with the tenure of the GC. It shall consist of 3 senior members with an impeccable record of integrity, honesty, impartiality and knowledge of the profession.

2.1.2 In the event that any of the EC members has a conflict of interest on a particular matter, they will declare it and recuse themselves. The GC will take steps to appoint an ad-hoc member to the EC for the purposes of that matter.

2.2 Functions of Ethics Committee

- 2.2.1 Review Code of Ethics periodically and recommend to GC any changes, if considered necessary, on account of change in circumstances or any other developments.
- 2.2.2 Provide interpretation of each clause of the Code as and when required.
- 2.2.3 Promote the Code of Ethics amongst members.
- 2.2.4 Provide the required service when a complaint is registered against a member of CEAI regarding violation of provisions in the Code.

2.3 Ethics Enforcement

Well-defined ethics enhancement procedures to uphold the Code of Ethics are necessary to maintain CEAI's prestige. This necessitates making sure members honour and adhere to the ethical practice promulgation of CEAI. For that matter CEAI needs to propagate all its documents amongst its members and obtain commitment in writing on a pre-drafted format – 'that the member has received, gone through and agrees to all documents related to ethical practices of CEAI and will follow the procedures outlined therein'. This also necessitates maintaining a fair and transparent disciplinary process. **This CEAI document** outlines the procedure for receiving and resolving complaints related to failure on part of any members to adhere to ethical practice. The complaint handling process is illustrated in [Annexure 1](#).

3.0 RECEIPT OF COMPLAINTS

3.1 Origin

The complaints can originate from:

- 3.1.1 Client with reference to
 - Integrity, corrupt practice, etc
 - Breach of contract
 - Competence
 - Impartiality
 - Confidentiality
 - Responsibility to society/ nation

- 3.1.2 Fellow consultants (CEAI member or not) relating to:
- Taking over unethically, supplanting or intervening in the professional work of other Consultants
 - Negative feedback/ downgrading other consultants for winning a project or any other benefits.
 - Ignoring normal business practices agreed by the CEAI for its members for individual gains.
- 3.1.3 Employees of a member company relating to:
- Complaint of a nature that can mar the image of the profession.
- 3.1.4 Sub consultants or Associates
- Unfair treatment or violation of CEAI's Code of Ethics.

3.2 Registration of Complaints

- 3.2.1 The complaining party is hereinafter referred to as the Complainant. Only complaints submitted to CEAI in writing, duly signed giving appropriate and adequate details and substantiated with evidence shall qualify for registration. The Ethics Complaint Form is in [Annexure 2](#).
- 3.2.2 Based on the Complainant's understanding at the time, the Complainant must file an undertaking that,
- The complaint is purely of an ethical nature as covered by the Code of Ethics of CEAI.
 - All evidence submitted is true and factual and that no material facts are suppressed.
 - It is understood that the process of adjudication of complaints before the Ethics Committee is not part of a legal and regulatory process mandated by any legislation. Refer [Annexure 3](#).
- 3.2.3 If the complaint or substance of any of the submissions is considered by the CEAI as false, frivolous, malafide or suppression of facts or if the Complainant violates any of the undertakings at any time and/ or does not comply with any other condition or conditions that the CEAI may impose upon the Complainant, CEAI could take an appropriate action including imposition of costs as assessed by CEAI.

- 3.2.4 Save seeking clarifications, CEAI shall not ordinarily involve the ultimate customer, if they are not members of CEAI, in any disputes among consulting members, unless the complaint originates from them, so as not to harm the image and interests of the profession and other CEAI members.
- 3.2.5 When a member lodges a complaint against another member (hereinafter referred to as the Respondent), the first member or the Complainant should neither verbally inform nor write to the client that CEAI is examining the violation of Code of Ethics on that complaint.
- 3.2.6 While registering a complaint, the EC must inform the Respondent and ascertain the views of the Respondent.

3.3 Before Commencing the Complaint Handling Process

- 3.3.1 CEAI shall obtain an undertaking from the concerned parties that they shall provide all information relevant to the case as per the timeline that the Ethics Committee may set. If either of the parties do not co-operate, CEAI/ the Ethics Committee shall proceed with the review of the complaint with the available information.
- 3.3.2 Both the Complainant and the Respondent shall also need to accept that they would not, at any time or place, use any language that may be construed as unbecoming of the profession, when referring to the other party.
- 3.3.3 The referral to CEAI and subsequent developments shall be kept strictly confidential.

4.0 PROCESS OF HANDLING COMPLAINTS

- 4.1 The process as illustrated in Annexure 1 of Section 8 in the form of a Flow-chart. covers various activities from receipt of a complaint to its logical disposal.
 - 4.1.1 If the CEAI decides to investigate a complaint lodged against a member, the concerned parties shall provide fullest co-operation to the CEAI.

4.2 Handling of Complaints

All complaints shall be addressed to the President and lodged at the office of the CEAI.

A complaint should be handed over to the Director of the CEAI. The Director upon receiving the complaint, must forward it to the Ethics Committee for further action. The discretion to register a complaint or not shall rest with the Chairperson of the Ethics Committee in consultation with the President/ its members.

In case the complaint is against the President of the CEAI or Organisation in which he/she has an interest, the matter shall be referred to the GC for further action. If necessary, an emergency meeting of the GC shall be summoned. If a complaint is not registered, a suitable reply with reasons shall be sent to the Complainant by the Director.

4.3 Guidelines for the Ethics Committee

Since the matter pertains to enforcement of Ethics, the Ethics Committee shall take due care and demonstrate integrity, competence, fair treatment, professionalism, diligence, transparency and objectivity. The Ethics Committee shall ensure carrying out of the adjudication process in an absolutely unbiased manner.

4.4 Grades of Complaints

The Ethics Committee after thorough scrutiny and completion of the process described hereafter shall grade the complaints level in the following categories, for which the recommended action could be as follows:

Grade	Complaint Level	Recommended Action to GC
I	Very low	Ignore
II	Low	Simple warning
III	Medium	Reprimand by GC
IV	High	Suspension for limited period: 6 Months - 2 years.
V	Severe	Termination of CEAI Membership

5.0 ADJUDICATION PROCESS

5.1 Role of Ethics Committee

The Ethics Committee is charged with administering and enforcing the Code of Ethics. After the complaint registration process is complete, the Ethics Committee will endeavour to put in place an impartial adjudication process by nominating a Task Force for the same, from amongst CEAI members. All adjudication / proceedings have to be undertaken with principles of natural justice fully complied with, in that both Parties should be heard fully and allowed to present their evidence.

The Ethics Committee shall not actively initiate investigations, as the CEAI does not have the investigative powers. It cannot force the witnesses to testify or produce evidentiary documents. Any intrusive approach could change the relationship that the CEAI has with its members from helpful and supportive to adversarial. However, each member has a personal responsibility in the enforcement of Code of Ethics by monitoring his/ her own actions and those of others.

The integrity of the Ethics Committee cannot be questioned.

5.2 Process of Adjudication

The process of adjudication of complaints is designed to ensure fairness and to follow a defined process. Individuals/ companies accused of violating the Code of Ethics i.e. the Respondents shall be provided an opportunity to respond to the allegations made and to seek further review or appeal against adverse decisions. In keeping with right to due process, the Ethics Committee/ the CEAI shall not accept anonymous complaints. Nor will it agree to keep confidential and not to disclose the identity of the individual/ company filing the complaint (i.e. the Complainant), to the person/ organization against whom the written complaint is lodged.

This would obviate frivolous or malicious complaints being filed, if the identity of the Complainant is known. It would also become much easier for the Ethics

Committee to determine the veracity and credibility of the evidence submitted, since the source of the evidence would be known.

5.3 Setting of Meetings

Meeting with Complainants and/ or Respondents shall be fixed by the Task Force through written correspondence, e-mail, or any other means, so that documentary evidence, which is traceable, is available. The meeting shall be for a particular date and time, along with the meeting venue to suit mutual convenience of those concerned but within a specified time-frame. If the meeting is fixed on phone or via SMS or any other messaging facility, it shall subsequently, be confirmed in writing.

5.3.1 Venue

The venue can be any place except the offices of the Complainant and the Respondent. As far as possible, a neutral venue shall be chosen. Once the meeting is fixed, the Complainant shall be requested to send expeditiously well ahead of the meeting, any additional documents in support of the complaint. These documents shall be shared with all the members of the Task Force. A Task Force meeting shall then be arranged within the next few days and, in any case, ahead of the scheduled meeting with the Complainant. If a meeting is not possible, the Chairperson of the Task Force shall at least share the ideas with all the Task Force members, so that they are on the same page.

5.3.2 Schedule of Meetings

- Meeting # 1

With the Complainant for clear understanding of the grounds for complaints and to ask for any further substantiation on any point. Communication then shall be sent to the Respondent giving details of the complaint and asking for explanation on various items of the complaint and requesting for a response with all supporting documents within a week or any other time-frame, which may be specified by the Task Force designated by the Ethics Committee.

- Meeting # 2

With the Respondent for clearly understanding the arguments put forth by the Respondent. Once the information from the Respondent has been received, it shall be shared with all the members of the Task Force and the Complainant.

- Meeting # 3

With the Complainant and the Respondent together with a view to hear both the parties and provide them an opportunity to clarify the matter in full details. An attempt shall then be made to resolve the issue to the satisfaction of both the parties.

Before the joint meeting with the Complainant and the Respondent all relevant documentation shall be made available to both parties.

5.3.3 If a resolution cannot be arrived at during the first joint meeting, two or more meetings may be held depending on the complexity of the matter. The Task Force / the Ethics Committee shall keep the President informed, about the developments on a regular basis. After the process is completed, the Task Force shall discuss the matter with the entire Ethics Committee. Thereafter, the final recommendation by the Ethics Committee shall be made to the GC.

5.3.4 If one of the parties fails to turn up for the scheduled and agreed meeting twice or fails to provide appropriate information as sought, the Task Force may conclude the matter based on whatever information is available with it and communicate the matter to the GC for a final decision.

5.4 Adjudication and Findings

The Task Force /Ethics Committee shall only consider the evidence provided by the Complainants and the Respondents to reach a decision. No information about the complaint shall be provided by anyone to any individual, organization or any other agency, while it is being adjudicated or later. If the Task force determines that there is insufficient evidence to support the findings that a Code of Ethics violation has occurred, the Respondent and the Complainant shall be notified about the situation and the matter shall be considered as closed. In case, a

violation of the Code is established, the Ethics Committee shall communicate its findings to the Governing Council (GC) to determine what action needs to be taken, commensurate with the grade of the complaint.

5.5 Possible Solutions

On scrutiny of all relevant information, if the Task Force concludes that the dispute does not involve any breach of Code of Ethics of the CEAI, it shall advise the two parties of clause 5.5.1 on 'Arbitration'

5.5.1 Arbitration

If the parties at any point of time after a complaint is registered, decide to go for arbitration, the Task Force shall cease to look further into the complaint. Thereafter, it shall be left to the two parties to take the matter for arbitration in the manner they deem fit, and the CEAI, its EC and the Task Force shall not be involved with the complaint any further, with due intimation to both the parties and the GC.

5.6 Disposal of the Complaint

5.6.1 This shall be done as early as possible, but generally within 6 months of the registration of the complaint, depending on the seriousness and complexity of the complaint.

5.6.2 Reference to Court

If at any stage, any party takes the matter to Court, the Ethics Committee shall satisfy itself that the dispute involves legal as well as ethical issues and that only legal issues have been referred to the Court. In such a case it may continue its proceedings on ethical issues only. However, if the Ethics Committee decides that the issues involved are only ethical and yet one of the parties has taken the matter to Court, the adjudication process shall be stopped, and matter shall be closed with due information to GC and the concerned parties.

6.0 DISCIPLINARY ACTION

As provided in the Flow-Chart, if no disciplinary action needs to be taken, the Ethics Committee may recommend to the GC to issue just a warning letter to the Respondent

or to the Complainant as the case may be. If however, a disciplinary action is indicated, an effort shall be made for arriving at a settlement/ agreement between the two parties. If a settlement is reached, it shall be communicated through the Ethics Committee to the GC for its approval, but if it cannot be reached, the case shall be referred/ presented to the GC for its final decision. Disciplinary action will be guided by actions recommended in Clause 4.4 Grades of Complaints

7.0 FINAL DECISION BY GC

7.1 On recommendation of the Ethics Committee, the GC shall take the final decision and the Respondent/ Complainant shall be notified appropriately as follows:

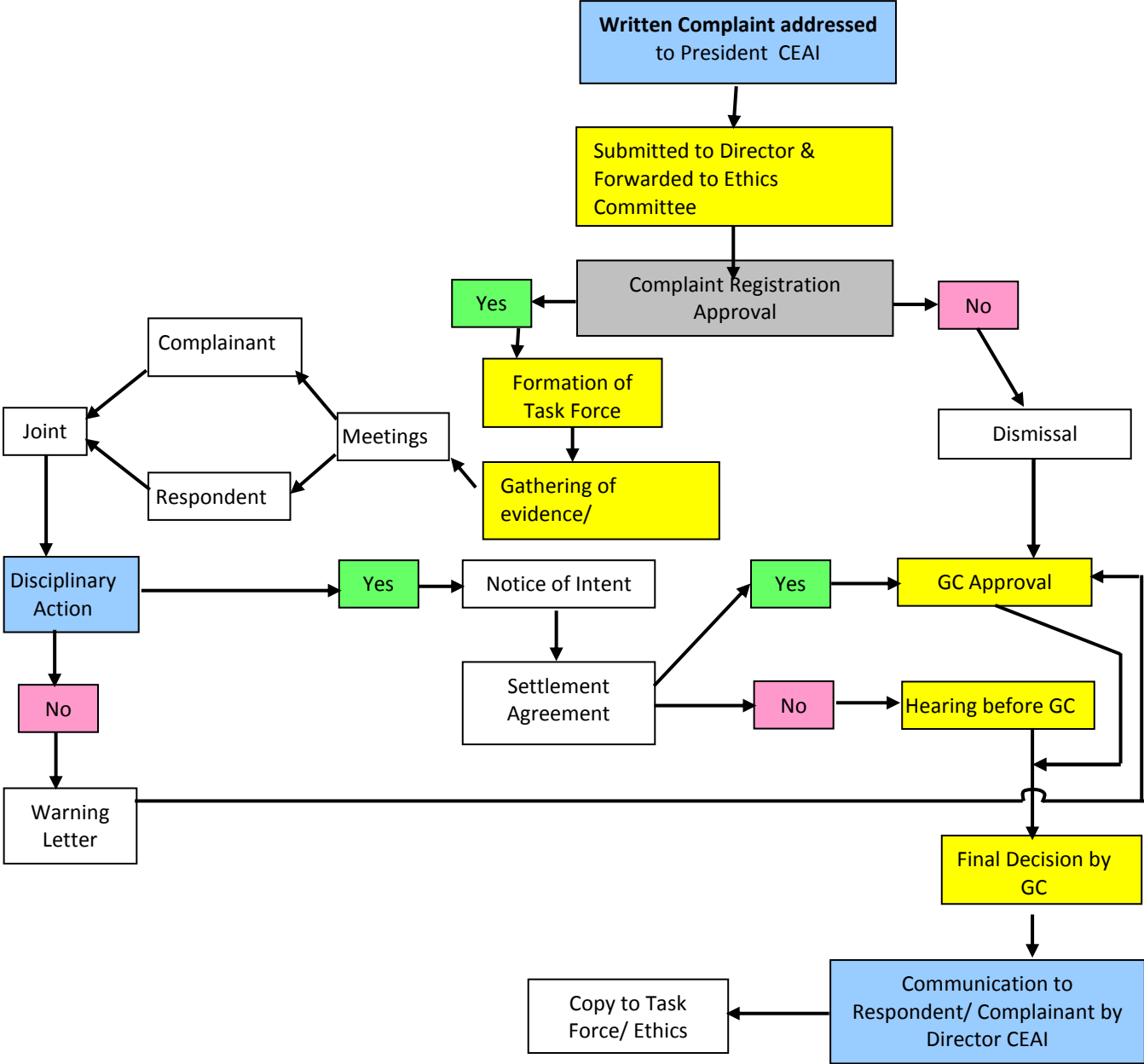
- ➔ No violation of the Code of Ethics has been conclusively established but a note of caution to be more careful in future to avoid such occurrence shall be given to the Respondent or
- ➔ The Code of Ethics has been violated with reference to its clauses :
XXXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXXX
- ➔ The level of violation is reckoned as Grade # - for which the sanction is as follows: XXXXXXXXXXXXXXXXXXXXX

7.2 If the Ethics Committee has arrived at a conclusion against the Complainant/ Respondent, the same shall be informed to the concerned party, and a final opportunity of representation to the Office Bearers of the GC shall be granted to the party, where such party will be allowed to submit their arguments and submission in writing, within two weeks of receipt of such communication. After perusal, CEAI shall consider any action against the Complainant/ Respondent.

7.3 The GC's final decision in writing for each violation, duly verified by the Chairperson of the Ethics Committee and the President, as being the decision shall be communicated to Complainant / Respondent formally by Director, CEAI and the matter shall be deemed to be closed thereafter. The GC shall ensure that its final decision is correctly and promptly implemented.

Annexure 1

8.0 FLOW-CHART



Annexure 2

9.0 ETHICS COMPLAINT FORM

This form is for use by anyone wishing to file an ethics complaint against a member of the Consulting Engineers Association of India (CEAI). This form will be received by the Director/ President of CEAI, who will review the charges and confirm that a CEAI member is named and that appropriate canons of the CEAI Code of Ethics are cited. Once this has been established, the Committee on Code of Ethics will determine if an investigation is warranted and a Task Force will be assigned to investigate the claim.

1. *Name of Complainant:* _____

Address: _____

Telephone: _____ *E-mail:* _____

2. *Name(s) of the CEAI member(s) against whom this complaint is being filed:*

City/State: _____

3. *Description of conduct involved. (If the space provided here is not sufficient, please continue on a separate sheet of paper. Please attach all relevant documents supporting the alleged unethical conduct.)*

4. *State the specific canon(s) of the CEAI Code of Ethics which you believe the above conduct to have violated:*

By my signature here, I certify that the information provided here and in any attachments are true and accurate to the best of my knowledge and belief.

Signature: _____ *Date:* _____

Please return this form and all attachments to:

Director / President
Consulting Engineers Association of India
Tel : 011-2613 9658
E-mail: ceai.ceai@gmail.com

Annexure 3

10.0 UNDERTAKING BY THE COMPLAINANT

I,(Name of Individual/Complainant), on behalf of
.....(Name of Organisation/ Complainant) hereby agree that the

- The complaint is purely of an ethical nature as covered by the Code of Ethics of CEAI.
- All evidence submitted is true and factual and that no material facts are suppressed.
- It is understood that the process of adjudication of complaints before the Ethics Committee is not part of a legal and regulatory process mandated by any legislation.

Name and Signature of Individual

Name of Organisation

Annexure 4

11.0 UNDERTAKING BY THE COMPLAINANT / RESPONDENT

I, (Name of Individual/Complainant/ Respondent) on behalf of(Name of Organisation/ Complainant/ Respondent) hereby undertake that,

- I/ We shall provide all information relevant to the case as per the timeline that the Ethics Committee may set.
- I/ We would not, at any time or place, use any language that may be construed as unbecoming of the profession, when referring to the other party.

Name and Signature of Individual

Name of Organisation

ACKNOWLEDGEMENT

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- *Ms Sayona Philip*
- *Mr Srikumar Ghosh*
- *Mr R S Sharma*
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- *Mr Sudhir Dhawan*
- *Mr Mahendra Raj*
- *Mr Alok Bhowmick*
- *Mr Raju Gogia*
- *Mr Amitabha Ghoshal*

2. *Review Committee Members:*

The members of the Review Committee were:

- *Mr Srikumar Ghosh*
- *Mr Sudhir Dhawan*
- *Mr Amitabha Ghoshal*
- *Ms Sayona Philip*
- *Mr Alok Bhowmick*

Their patience and cooperation is gratefully acknowledged.

3. *This document has been published after obtaining the views of a Legal Expert.*