

EXPERT WITNESS INSTITUTE

COMPLAINTS AND DISCIPLINE RULES

Made under Article 42 of the Memorandum of Association

Purpose

The purpose of these rules is to provide a method of enforcing the Expert Witness Institute/Academy of Experts “Code of Practice for Experts”, and to provide a framework for dealing with complaints against members. The Code is, for these purposes, a code prepared and approved by the Governors under Article 42 of the Articles of Association.

The procedures set out are designed to be transparent to all users, and to ensure fairness to all concerned in dealing with complaints.

The Code of Practice for Experts

The Code is annexed to these rules. The code sets out the behaviour expected of all EWI members when acting in the course of their duties as an expert witness. Breach of the Code or any part of it may provide grounds for complaint and may result in disciplinary action being taken by the EWI.

Who can make a complaint?

A complaint against the conduct of a EWI member may be made by any person with a direct connection with the matter, case or claim in respect of which the conduct of the EWI member is alleged to relate. This will include the lay client, instructing solicitor, the barrister in the case, 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.

Conduct

The EWI will only entertain a complaint based on breach of the Code of conduct which amounts to misconduct. A claim will not normally be entertained solely on the grounds that the expert was allegedly guilty of negligent advice or conduct.

How a complaint can be made

Any complaint about the conduct of a member must be in writing address to:

The Chief Executive
The Expert Witness Institute
7 Warwick Court
London WC1R 5DJ

The complaint must set out the nature of the matter in which the expert was instructed and full details about the circumstances of the complaint. The letter or document must contain sufficient detail to enable the Institute and the expert to understand the precise allegations of misconduct that are being made.

A copy of the complaint will be sent to the expert concerned.

Complaints made anonymously will not be entertained.

The complainant will be deemed to have waived any legal professional privilege to the case or matter in question.

Procedure

The Chief Executive will refer the complaint to the Governor of the Institute designated by the Governors to deal with complaints. He or she will then decide whether the Chief Executive will investigate the matter or whether (in cases of serious allegations of misconduct or in matters of great complexity) the matter will be referred to two Fellows of the Institute.

The complainant will be informed of that decision by the Chief Executive or Fellows.

If the nature of the complaint is of great severity, a member may be suspended from membership whilst the complaint is being investigated. Such a decision to suspend may only be made by the Designated Governor following a recommendation

The Chief Executive, or Fellows, may call for further information from the complainant. Failure to co-operate with the Institute's investigation process may result in the complaint being rejected.

The expert will be required to respond to the complaint, fully and in writing, and a copy of the response will be sent to the complainant.

Subject to any further representations being made by either party, the Chief Executive or Fellows (as may be the case) will decide either that the complaint be rejected or that the complaint be upheld.

At all times the EWI and any person representing the Institute will act in accordance with the rules of natural justice.

The decision will be forwarded to the designated Board Member who will, if the complaint has been upheld, decide on the sanction or penalty to be imposed. This will be either:

- (a) A period of suspension of membership
- (b) A period of suspension of membership and a requirement to undergo further training
- (c) A formal admonition in addition to (a) or (b) above.
- (d) Expulsion from the Institute

The complainant and the member will be given notification of the result of the complaint and a fully-reasoned explanation will be given if requested.

The member, if the complaint is upheld, may give written notice of appeal against the decision to the Chief Executive. Such an appeal must be notified within 6 weeks from the notification to the member of the result of the complaint.

The appeal will be referred to the Board of Governors to be dealt with. The Board may:

- (a) deal with the appeal without further information being required, or
- (b) request further information from the member, or
- (c) deal with the matter by way of oral hearing.

The Board may confirm the sanction originally imposed or substitute any of the other sanctions set out above.

The complainant and the member will be informed of the result of any appeal.