Media advisory
23 March, 2015

Disciplinary Committee begins hearing into IPENZ complaint against Dr Alan Reay

A Disciplinary Committee hearing begins today into a complaint against Dr Alan Reay made by IPENZ.

The complaint is that Dr Reay applied for registration as a Chartered Professional Engineer after the February 2011 earthquake in Christchurch not disclosing (either in his application or interview with assessors) his involvement in the design and construction of the CTV building.

A complaint was laid by the Registration Authority and referred to an Investigating Committee. The Investigating Committee decided in its report of 9 April 2014 that the complaint should be referred to a Disciplinary Committee to decide whether the complaint should be upheld, and if so, the appropriate penalties.

The Disciplinary Committee conducting the current hearing will be chaired by Alan Bickers, MNZM DistFIPENZ JP

The hearing is inquisitorial in nature and will be held in public.

The hearing is expected to take three days to complete. If the Disciplinary Committee determines that the complaint is upheld, it will invite the parties to make submissions on penalty, costs and public notification of any order made.

During the hearing and until a decision is released, IPENZ will make no comment on any matters directly relating to the complaint and/or the hearing.

Ends

Issued by IPENZ (The Institution of Professional Engineers)

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Information sheet: Disciplinary Committee hearing (CPEng)

Introduction

On Monday 23rd and Tuesday 24th March 2015, a Disciplinary Committee established under the Chartered Professional Engineers of New Zealand Act 2002 (CPEng Act), will hear a complaint brought on its own motion about the alleged misconduct of an engineer.

The following provides background information on the hearing, the parties and the procedure.

Background

The Institution of Professional Engineers New Zealand Incorporated (IPENZ) is a professional membership body charged with the advancement of engineering within New Zealand.

Separately from the IPENZ Rules and Disciplinary Regulations, the CPEng Act establishes a statutory registration regime for professional engineers. Under the CPEng Act, engineers who apply and meet the necessary requirements of up-to-date technical competence are registered as Chartered Professional Engineers. This entitles them to use the post-nominal CPEng. In New Zealand engineers can only use this quality mark if they are on the register. Registration is re-assessed at least every six years.

Engineers can be disciplined under two different regimes (one non-statutory and one statutory) with different sets of rules though some rules are similar:

- As Members of IPENZ under the IPENZ Code of Ethics and Disciplinary Regulations.
- Under the CPEng Act for those registered as Chartered Professional Engineers

Some engineers are both Members of IPENZ and Chartered Professional Engineers (in which case the statutory regime is usually used). Some fall into one or other category (or neither).

IPENZ is the Registration Authority under the CPEng Act and administers the CPEng regime. The complaints and disciplinary process relating to the CPEng Act are prescribed under regulations made under the CPEng Act (the Rules).

IPENZ (as the Registration Authority) may initiate a complaint if it has areas of concern, however it does not formally investigate the complaint or make decisions itself. These functions are delegated to an Investigating Committee and, if a case proceeds, to a Disciplinary Committee.

The Hearing

The hearing is a public hearing unless the Disciplinary Committee orders otherwise.

The Disciplinary Committee:

- Hears the complaint and decides whether or not there are grounds for disciplining the engineer.
• Is not constrained by the findings of the Investigating Committee – it has the power to make any inquiries and receive any evidence it considers necessary and thinks fit.

The Hearing Process
The Chair of the Disciplinary Committee will open the hearing and introduce the members of the Committee. He will advise that the hearing is a public hearing, that it is inquisitorial in nature and give any necessary directions for conduct. All questioning is through the Chair and cross-examination is not permitted. Unless otherwise directed, all evidence is given on oath.

The Complainant will be invited to present a summary of the complaint, any evidence it proposes to submit, and call witnesses. The Complainant and any witnesses may be questioned by the Respondent and by members of the Disciplinary Committee through the Chair. There is no opportunity for cross examination.

The Disciplinary Committee will consider the Investigating Committee’s report and may question the Investigating Committee.

The Respondent will be invited to present a summary of his case and call witnesses. The Respondent and any witnesses may be questioned by the Complainant and members of the Disciplinary Committee. The Respondent and any witnesses called may be re-examined if required.

Final submissions may be made by the Complainant and then the Respondent.

The Determination
The Disciplinary Committee will deliberate on the evidence in private. If the Disciplinary Committee upholds the complaint, it will invite submissions from the Complainant and Respondent on penalty, costs and public notification of any order made.

Penalty
If the complaint is upheld, penalties available to the Disciplinary Committee under the CPEng Act include:
• Removal or suspension from the CPEng register. If an engineer is to be suspended, the Disciplinary Committee may order he is not able to reapply for registration for a specified period.
• Censure.
• A fine not exceeding $5,000 (imposed provided the Respondent has not also been the subject of a court conviction).
• Imposition of all or a percentage of the costs associated with the hearing and investigation.
• Publication of the decision.
• Notification of the decision to the Registrar of Licensed Building Practitioners.

Appeals
Each party has 28 days to appeal the decision to the Chartered Professional Engineers Council. Any decision from the Chartered Professional Engineers Council can be appealed to the District Court if the party is dissatisfied with the outcome. No orders will be implemented, including publication, until all avenues of appeal have been exhausted.

Ends