



engineering
new zealand
Institute of Engineering Professionals

CASE NOTE

COMPLAINT ABOUT JOSEPH MCGIRR

27 August 2020

A recent Disciplinary Committee decision is an important reminder for the profession that the Code of Ethical Conduct always applies to engineers' behaviour towards their clients, including outside working hours.

The decision relates to a complaint made about Joseph McGirr, a Chartered Professional Engineer and Chartered Member of Engineering New Zealand.

On Saturday 18 November 2017, Mr McGirr entered the complainant's house uninvited, under the influence of alcohol, and accompanied by a friend. At that time, the complainant, a former client of Mr McGirr's, had an open complaint with Engineering New Zealand regarding engineering services Mr McGirr had provided. Mr McGirr said he went to the complainant's house to attempt to resolve the open complaint. The complainant asked Mr McGirr to leave. His friend left, but Mr McGirr remained in the complainant's home for some minutes and it was not until his friend retrieved him that he left.

Mr McGirr admitted that he had been drinking alcohol and had entered the client's house uninvited. However, he argued that the Code of Ethical Conduct did not apply to his actions as they were not in the context of providing engineering services. The Disciplinary Committee disagreed, stating:

Mr McGirr's interpretation of the Code of Ethical Conduct is, in our view, inappropriately narrow.... the object of Engineering New Zealand is the advancement of the engineering profession and includes contributing to and meeting the needs of the community. Achieving this object requires engineering activities to apply to more than just the performance of technical skills [rather] all the activities connected the performance of those skills. Mr McGirr's actions were innately connected with his engineering activities in that he wished to talk to [the complainant] about [their] complaint about his services. If not for [the complainant] engaging Mr McGirr for his engineering services, he would not have entered [their] house that day.

Mr McGirr accepted his conduct on this occasion was not consistent with being a fit and proper person ie with Engineering New Zealand members' "good character obligation". However, the Disciplinary Committee said that they needed to consider whether he would be considered fit and proper person to be a member of Engineering New Zealand going forward:

An engineer who has made such a grave error, albeit a "one-off", which is so far out of the bounds of what we would expect of a fit and proper person to be a member of Engineering New Zealand, cannot be considered to be a fit and proper person to be a member of Engineering New Zealand going forward unless the engineer can demonstrate a sustained change in the behaviours that contributed to the transgression and an insight into the harm caused to the affected party.

The Disciplinary Committee found that Mr McGirr significantly departed from the behaviour reasonably expected of a Chartered Professional Engineer and Chartered Member of Engineering New Zealand.

The complaint was upheld.

The Disciplinary Committee ordered that:

- Mr McGirr is suspended from the register of Chartered Professional Engineers and membership with Engineering New Zealand for a period of three months, and will be reinstated on the register and into the membership subject to Mr McGirr undergoing:
 - alcohol and drug counselling as approved by the Registration Authority and Engineering New Zealand, and completed to their satisfaction; and
 - professional ethics counselling with a mentor approved by the Registration Authority and Engineering New Zealand and completed to their satisfaction.
- Mr McGirr is fined \$3,500; and
- Mr McGirr is to pay approximately 50 per cent of the costs incurred by Engineering New Zealand in investigating and hearing the complaint, being \$25,300.00.

The Disciplinary Committee also ordered that this case note should be published. The full decision will not be published, to protect the complainant's identity.