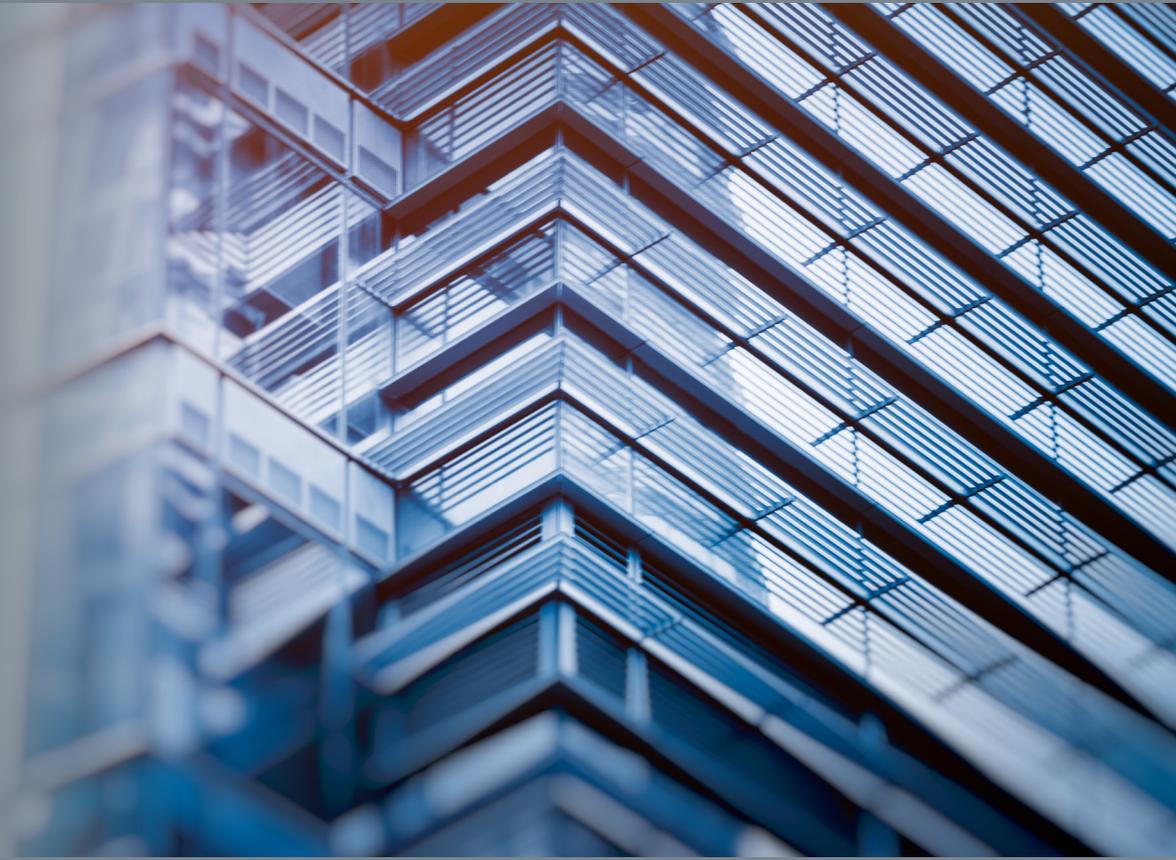


Code of Conduct and Guidance Notes



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INTRODUCTION

The Institution's main purpose, in accordance with its Royal Charter, is to promote for the public benefit the general advancement of the science and art of structural engineering. As well as being an international learned society, it is also a qualifying body with high entry standards and members are required to undertake continuing professional development. The Institution has over 28,000 members, all of them as individuals, working in 105 countries around the world.

Grades of membership

The preparatory classes of membership are Student and Graduate.

Those who qualify as Incorporated Structural Engineers are elected Associate-Members, with the designatory letters 'AMIStructE'.

Those with appropriate academic qualifications and experience are elected Chartered Structural Engineers, as either Fellows ('FIStructE'), Members ('MIStructE') or Associates ('AIStructE').

Professional conduct

The Institution's Royal Charter gives it the power to devise, promulgate and enforce high standards of professional conduct for its members. The Bye-laws provide that members shall be obliged at all times to uphold the reputation of their profession and to observe the Laws of the Institution, which includes the Code of Conduct and Guidance Notes.

COMMON INFRINGEMENTS OF THE CODE OF CONDUCT

The majority of complaints made to the Professional Conduct Committee concern poor business practices, unprofessional conduct and/ or poor judgement rather than failings in technical competence.

The following are examples of common failures in professional conduct that frequently result in complaints to the Professional Conduct Committee:

Agreeing a brief/ accepting instructions

- No brief.
- Inadequate or unclear initial brief.
- Ignoring specific instructions of client.

Fees

- No agreement on the basis on which fees will be rendered.
- Charging extra fees without the client's approval.
- Failing to advise the client before additional work is undertaken and fees are incurred.

Communication

- Failing to respond to communications from clients or their representatives within a reasonable time.
- Aggressive and threatening behaviour and/or communications, particularly in respect of issues over fees.
- Failing to keep clients or their representatives informed.

Delays

- Failing to meet agreed deadlines.

Incompetence

- Carrying out tasks outside the member's field and/or level of expertise.

Reviewing solutions

- Failing to notify a previous engineer when asked to review their work.
- Providing a report criticising another engineer's work without first notifying the original engineer.

Setting up a new practice

- Taking clients and/or work from an existing employer either during employment or when leaving a practice in contravention of employment contract.

Conflict of interest/ act impartially

- Failing to act with courtesy and or impartiality with both clients and others involved in the work being undertaken.

CODE OF CONDUCT

Members shall:

- 1 act with integrity and fairness and in accordance with the principles of ethical behaviour;
- 2 have regard to the public interest as well as the interests of all those affected by their professional activities;
- 3 uphold the reputation of the profession;
- 4 maintain and broaden their competence and, where appropriate, assist others to do so;
- 5 undertake only those tasks and accept only those appointments for which they are competent;
- 6 exercise appropriate skill and judgement;
- 7 not maliciously or recklessly injure or attempt to injure the reputation of another person;
- 8 avoid conflicts of interest.

Cont.

The articles listed 1- 8 constitute the **Articles** of the Institution's Code of Conduct. In addition, **Members shall:**

- comply with the legislation of the country in which they are working and that which is relevant to the project location;
- disclose to the Institution upon being declared bankrupt and/or becoming disqualified as a Company Director and/or Charity Trustee;
- disclose to the Institution if they have been convicted of a criminal offence (other than motoring offences which did not result in disqualification);
- disclose to the Institution if they have been subject to an adverse finding before any tribunal, court or other competent authority in respect of an allegation or offence relevant to membership of the Institution;
- comply with the Laws of the Institution of Structural Engineers as described by the Charter, Bye-laws, Regulations and associated Rules.

The Institution's procedure for investigating allegations of misconduct and its powers in relation to members found in breach of the Code of Conduct is set out in section 4 of the Regulations of The Institution of Structural Engineers.

GUIDANCE NOTES

The following guidance notes provide examples of how members are expected to conduct themselves. The list is not intended to be exhaustive and each example may be relevant to more than one article of the code of conduct.

In addition to the Code of Conduct, all members shall comply with the statement of ethical principles published by the Engineering Council and the Royal Academy of Engineering available on istructe.org.

Members must ensure that they are cognisant of the legislation of the country in which they operate. Members are obliged to abide by the Institution's Code of Conduct and Guidance Notes insofar as they do not conflict with relevant legislation.

1. Act with integrity and fairness

1.1 General conduct

1.1.1 Members should discharge their duties with care, courtesy, impartiality and fidelity.

1.1.2 Members should take appropriate steps, prior to reviewing the work of another person, to notify that person. The necessary authority to do this should be obtained from the instructing client.

1.1.3 Members should ensure that the documentation of an organisation, the control of which they are responsible for, properly describes its structure; e.g. as a sole practitioner, partnership, or private/public limited company.

1.1.4 Members should ensure prior to accepting a commission to provide professional services that appropriate Professional Indemnity Insurance is carried and is adequate to cover the potential liability of any claim at the present or in the future.

1.1.5 Members should ensure that they discharge their duties in accordance with the legislation of the region in which they are working.

1.1.6 Members should ensure that they are aware of specific jurisdictions and the applicability (if any) to the region in which they are working.

1.1.7 Members should not:

- cause unreasonable or unjustified delay
- disclose confidential information
- disclose the contents of a report to third parties, without the client's express permission.

1.2 Designatory letters

The Institution takes positive action to protect its titles and designatory letters.

Members who are not entitled to any titles or designatory letters must not use any phrase or wording which suggests a higher grade of membership to that which has been conferred.

Members whose membership of the Institution ceases for any reason are no longer entitled to any titles or designatory letters conferred by their membership and must immediately cease using these.

If former members who have continued to use any titles or designatory letters to which they are no longer entitled apply for readmission, such misuse is liable to be taken into account when their applications are considered. In serious cases of misuse, readmission may be denied.

1.3 Disqualification as a Company Director and/or as a Charity Trustee

Members must disclose to the Institution if they have been disqualified as a Company Director and/or disqualified as a Charity Trustee. Disqualification which is relevant to a member's professional activities may be regarded as a breach of the Code of Conduct.

1.4 Criminal conviction or adverse finding

Members must disclose to the Institution if they have been convicted of a criminal offence or have been subject to an adverse finding by another organisation.

A conviction by a court of law or an adverse finding by another organisation which is relevant to a member's professional activities may be regarded as a breach of the Code of Conduct.

1.5 Clients' funds

1.5.1 Monies entrusted by a client to a member must be handled with full regard to the client's interests.

1.5.2 Such monies must be paid promptly into a separate client account, be accurately recorded in the accounts of the member's organisation, and be readily available for their intended purpose.

1.5.3 The member must obtain the prior written authority of the client for payments from the account. A signed mandate could be considered appropriate as this will avoid delays in settling accounts, particularly where a client may not always be available to make payment themselves.

1.5.4 If such monies are placed in an interest-bearing account, the interest may not be retained by the member.

1.5.5 Where appropriate, advice should be sought from an accountant, lawyer or other qualified person.

2. Have regard to the public interest as well as the interests of all those affected by their professional activities

2.1 Professional Indemnity Insurance (PII)

2.1.1 In many countries Professional Indemnity Insurance cover is required by law. Members should ensure that they personally comply, or an organisation which they control complies, with any such legal requirements.

2.1.2 Prior to accepting a commission to provide professional services either personally or through an organisation which they control, members should ensure that appropriate Professional Indemnity Insurance is carried and if appropriate Professional Indemnity Insurance is not carried, members should inform their client accordingly.

2.1.3 If a member ceases their PI cover for whatever reason, it is strongly advised that advice is obtained from their PI Insurer regarding their future liabilities.

2.1.4 Members need not disclose the existence or level of any Professional Indemnity Insurance held by them to a third party unless their insurers have given consent to such disclosure.

2.2 Designing for contractors

2.2.1 When a member, or their organisation, is employed to work for a contractor, either by client novation or any other agreement, the member must maintain any confidentiality relating to the work for their original client.

2.2.2 Prior to accepting a commission to provide professional services for a contractor, either personally or through an organisation which they control, a member should ensure that appropriate Professional Indemnity Insurance is in place to cover the proposed services.

The services may, for example, cover such elements as temporary works, carrying out the contractor's design elements, construction detailing, construction management, and the appointment of sub-consultants, any or all of which may fall outside the normal scope of professional services.

2.2.3 In certain circumstances, the duty of care owed by a contractor to the employer may be stricter than the duty ordinarily imposed on a professional to exercise reasonable skill and care. When taking steps to ensure that appropriate Professional Indemnity Insurance is in place as above, the member should inform their insurers of the precise nature of the services to be provided to the contractor.

2.3 Members shall notify the Institution of any significant violation of the Institution's Code of Professional Conduct by another member that adversely affects others.

3. Uphold the reputation of the profession

3.1 Members shall not offer or accept, either directly or indirectly, inducements or favours in connection with the provision of professional services.

3.2 Advertising and informative publicity

3.2.1 Advertising and informative publicity should be helpful to the public, while upholding the reputation of the profession.

3.2.2 Factual statements may be made including the professional qualifications of members of an organisation and giving a description of the services available. Extravagant or self-laudatory language should not be used.

Members should ensure that the information provided is neither misleading nor unfair to other members of the Institution or to other professions.

3.2.3 Personally addressed letters sent to those who may have an interest in receiving details of services offered may more fully describe those services.

3.2.4 Circulars and advertisements, whether published in paper or electronic format, which are not personally addressed will not be regarded as unprofessional, provided there is no reference to the Institution included in them. Accordingly, members wishing to issue such material should ensure that there is no allusion to the Institution by the use of designatory letters or the titles 'Chartered/Incorporated/Technician Structural Engineer' or the Institution's logo.

3.2.5 Company information, whether issued in the form of a brochure or on a company website may only include factual reference to the Institution. The designatory letters awarded to members by the Institution may be quoted.

The Institution logo should only be used under license awarded by the Institution.

3.3 Use of social media

3.3.1 Members should have regard for the guidelines on the use of social media set out by the Institution available on istructe.org.

4. Maintain and broaden their competence and, where appropriate, assist others to do so

- 4.1 Members are required to maintain, enhance and broaden their knowledge and skills relevant to their membership of the Institution. The Institution operates a mandatory CPD programme in which records must be maintained and be available for audit by the Institution. In order to assist in this process, the Institution makes available an online recording system for members to record activities undertaken.
- 4.2 Members in professional grades should ensure that trainees and graduates are assisted in their development and progress towards a professional grade of membership.
- 4.3 Factual statements may be made including the professional qualifications of members of an organisation and giving a description of the services available. Extravagant or self-laudatory language should not be used. Members should ensure that the information provided is neither misleading nor unfair to other members of the Institution or to other professions.

4.4 Personally-addressed letters sent to those who may have an interest in receiving details of services offered may more fully describe those services.

4.5 With regard to circulars which are not personally addressed, provided there is no reference to the Institution in such documents, they will not be regarded as unprofessional. Accordingly, members wishing to issue such material should ensure that there is no allusion to the Institution by the use of designatory letters or the titles 'Chartered/Incorporated Structural Engineer' or the Institution's logo.

5. Undertake only those tasks for which they are competent

5.1 When an approach is received from a potential client, members should take all reasonable steps to understand and define the brief with the client. Members should be particularly careful to ensure the client is aware that they will not be providing a service in respect of any matters outside their competence. If other professional advice is required, the client should be informed.

5.2 When members of the Institution have supervisor responsibility for a junior colleague or employee, members should ensure that those under their supervision or direction are competent to undertake the work assigned to them.

5.3 Structural inspections and surveys of buildings

5.3.1 Members should consider that confusion may arise on the part of less-informed clients with regard to what is meant by a 'structural (or building) survey' or a 'structural inspection'. A structural inspection is a survey concerned with the structure, or specific elements of the structure, of a building. In contrast, a structural (or building) survey will normally include an investigation and assessment of the construction and condition of a building, including its structure, fabric and services.

Members should be cautious if a client seeks to receive a comprehensive report covering every aspect of the property, for which the client expects the member to take full legal responsibility. Members should advise a client, and ensure the client understands the limitations of the service which is to be provided prior to accepting a commission. The scope of the service including any limitations should be re-confirmed in the report.

5.3.2 The intended scope and purpose of the report should be incorporated in a letter either of appointment or of acceptance of appointment, and should be repeated in the report itself in order that the extent of the responsibilities accepted by a member will be properly recorded.

5.3.3 Difficulties may arise where a member, acting under a limited brief, examines a property in which defects or other matters of concern are observed outside the scope of the commission. If a member believes that these defects or matters could result in health and safety issues and/or financial losses, the member should advise the client that a further more extensive inspection, either by them or other professionals (if outside their own field of expertise), is required. If health or safety issues arise, it may also be necessary to give notice to the appropriate local authority and this should be discussed with the client and an appropriate course of action agreed.

- 5.3.4 A report following a survey or inspection, should state clearly and concisely the member's findings, conclusions and recommendations. The evidence from which the conclusions are drawn should also be included. The report should be written in language which is appropriate to the purpose of the report and the intended reader(s) who will rely on it. For example, in the case of a survey commissioned by a person intending to purchase a property, it may be necessary to express, or explain, technical matters in layman's terms. It may also be necessary to include a disclaimer in the report in respect persons who may seek to rely on the report without the requisite authority.
- 5.3.5 Guidance of good practice to carrying out structural inspections and the preparation of reports can be found in the Institution's publication *Surveys and Inspections of Buildings and Associated Structures*, available on istructe.org.
- 5.4 Properties with adjoining owners
 - 5.4.1 Where members are asked to report or undertake work on a property that adjoins or is above or beneath a property in different ownership, the client should be advised of the structural influence(s) that adjacent properties may have on the property concerned and vice versa. Consideration should be given to the state of the whole building or block of buildings, particularly in respect to overall stability. Modest alterations by individual property owners may, when taken together, have a significant effect on the total structure and may affect the right of support. It may be desirable, subject to the client's prior agreement, to seek permission to make a detailed inspection of an adjacent property or even the whole building or terrace.
 - 5.4.2 If approaches to adjacent owners are ruled out, for example by the client's requirement of commercial confidentiality, the limitations that such a restriction may impose on the advice given should be clearly stated by the member, both at the time instructions are given and in their written report.

5.4.3 Inspection of adjacent properties should be conducted with care and tact. A member should take care to protect their client's confidentiality and in any event should not cause any concern to the adjacent owner.

The member should avoid being drawn into discussion or correspondence with adjacent owners, which may adversely affect the member's responsibilities to their client. If such communication is unavoidable the client should be informed and appropriate steps agreed.

5.4.4 Permission should be obtained before entering an adjacent property. Unauthorised inspections, even of empty property, are highly unlikely to be appropriate.

5.4.5 If, on inspection of an adjacent property, it is apparent that there are factors that could affect the client's property then the client should be so advised.

5.4.6 Should the member conclude that a property may be unsafe, the member should notify the client and any others concerned, including the appropriate authority.

5.4.7 An adjacent owner may have appointed their own engineer. If both clients agree, discussion of any technical problems on an engineer-to-engineer basis would ordinarily be an appropriate way forward with a view to a mutually-agreed course of action.

5.4.8 Reports should be clear and concise, as described above. In addition, any assumptions made in respect of adjacent properties should be clearly stated. There is no guarantee that a confidential report to the client will not be passed to others, including the owners of adjacent properties, and an appropriate disclaimer should be included.

5.5 Appointment under the Party Wall etc. Act 1996

5.5.1. When accepting an instruction for which the Party Wall etc. Act ("The Act") is relevant (The Act applies throughout England and Wales only) members are required to have full regard to the requirements of and legislative provisions of The Act.

5.5.2 Members must ensure that they are sufficiently aware of the provisions of The Act to be able to apply them properly and to be able to comply with the procedures and the strict timings prescribed by The Act.

5.5.3 Members who are responsible to their client for the design of works and subsequently accept appointment as party wall surveyor under The Act, must understand the differences between the relationship with the client, as designer, and the statutory role as appointed surveyor, and this distinction must be clearly explained to the client before accepting a statutory appointment as party wall surveyor. In particular, that the statutory duty is to impartially apply the provisions of The Act, even if doing so conflicts with the client's instructions or requires amendment of the design already prepared by the member as the designer.

- 5.5.4 Appointments under The Act are statutory appointments, members appointed under The Act must comply with the Institution's Code of Conduct and Guidance Notes insofar as they do not conflict with the provisions of The Act.
- 5.6 Working for insurers or loss adjusters
 - 5.6.1 When working for insurers or loss adjusters, members should ensure that they know who is their client, and vice versa, at all stages of their involvement as this may vary during the course of the claim. Members should avoid any conflict of interest.
 - 5.6.2 The primary duty of a professional adviser is to their client. In fulfilling this duty members must conduct themselves in a professional and responsible manner towards all other parties or advisers involved with the matter.
 - 5.6.3 Members should not take exception to a client requesting a second opinion on advice given. In the interests of their respective clients all advisers should endeavour to cooperate to achieve a satisfactory resolution to the issue.
- 5.6.4 The fee arrangement should be agreed in writing as soon as possible. It should not be assumed that the insurer will pay fees incurred by a member when, in effect, acting for the insured, unless such an agreement has been reached beforehand between the insured and the insurer and this agreement has been provided to the member. The member should clarify and get confirmation in writing that any shortfall in fees will be met by the client (whether this is the insured or the insurer).
- 5.6.5 The member should explain the technical aspects of the claim in simple terms to the insured and in particular the time-scales which may be involved. Insurers or their loss adjusters are responsible for answering any questions on insurance matters.
- 5.6.6 A member appointed directly by either an insurer or a loss adjuster, should act impartially and not be biased towards insurers.
- 5.7 Expert Witness within the United Kingdom
 - 5.7.1 When a member acts as an Expert Witness in civil proceedings in England and Wales, their conduct is governed by the Civil Procedure Rules 1998, as amended from time to time ('the CPR'), principally Part 35 'Expert and Assessors'.

- 5.7.2 It is important that a member who is instructed to act as expert properly understands their overriding duty to the court and the rules governing expert evidence in CPR Part 35.
- 5.7.3 The expert's overriding duty to the court does not preclude a duty owed to the client. A member instructed as an expert should inform the client if the overriding duty to the court requires them to provide evidence which is adverse to the client's case.
- 5.7.4 When a member is appointed as a single joint expert, it is essential that both parties are treated equally and impartially even though one of the parties may be known to the expert.
- 5.7.5 Members who act as expert witnesses in criminal proceedings in England and Wales should properly understand the equivalent duty and provisions with regard to expert evidence in the Criminal Procedure Rules 2012 and subsequent amendments.
- 5.7.6 Any member who is considering acting as an Expert Witness should be aware that under changes in the law following Jones v Kaney [2011] UKSC 13, expert witnesses no longer have immunity from being sued in the Civil Courts in respect of their evidence. (www.supremecourt.uk/decided-cases/docs/UKSC_2010_0034_Judgment.pdf). Therefore, prior to accepting an appointment as expert, a member should ensure that they have in place, either personally or through the organisation by which they are employed, appropriate Professional Indemnity Insurance which covers their activities as expert.
- 5.8 Structural Engineers Registration Limited ('SER')
- 5.8.1 When a member is operating under SER, they are required to have regard to the specific procedures prescribed by SER. Further information on registration and the requirements of the SER scheme can be found at: www.ser-ltd.com.

- 6. Exercise appropriate skill and judgement**
- 6.1 Members should take reasonable care to ensure the safety and serviceability of structural engineering work entrusted to them and comply with health and safety regulations.
- 6.2 Members should comply with the legislation of the country in which they are working and in which their work is to be constructed. This would, for example in England, include legislation such as CDM Regulations, Party Wall Act and Building Regulations.
- 6.3 Members should support a colleague or any other person to whom they have a duty of care who in good faith raises any concern about a danger, risk, malpractice or wrongdoing which affects others (“whistleblows”).
- 6.4 Terms of appointment
 - 6.4.1 Members should take all reasonable steps to ensure that their client understands the scope of the service to be provided including any limitations. The terms of appointment should be agreed (preferably in writing) before any work is commenced. The urgency with which work is often required should not be allowed to override the need for written clarification of the brief.
 - 6.4.2 Members should ensure that their brief and terms of payment are agreed by the client and should obtain written acceptance prior to commencement of work. If it becomes apparent that the scope of work and/or the fee eventually chargeable will differ from that originally agreed, the client should be advised of this at the earliest opportunity of it becoming apparent.
- 6.5 Quality Procedures
 - 6.5.1 When in-house checking procedures require initials to confirm a check or approval has been undertaken, members should have regard to the potential problems which may occur with the automatic inclusion of digital signatures.

7. Not maliciously or recklessly injure or attempt to injure the reputation of another person

7.1 Checking and appraisal/review

7.1.1 The checking engineer should have full regard to the public interest. Subject to the consent of the client, a member undertaking the role of checking engineer should inform the original designer of their appointment and, if possible, arrange to have access to all those responsible for the original design, such that they are able to freely discuss and resolve any matters that may arise with the designer. The checking engineer should remain impartial and objective and avoid being influenced by either the designer or the client.

7.1.2 There should be an agreement in writing between the checking engineer and the client, defining the nature and scope of the check and making provision for effective communication between the checking engineer and the original designer. The ongoing obligations of the original designer to the client should be clear and, if necessary, an appropriate statement should be included in the checking engineer's appointment.

7.1.3: In the event that the client does not consent to informing the original designer and/or in the absence of confirmation from the original designer that all relevant information required to undertake a check/review has been received, members should exercise caution with respect to any opinion they express on the original designer's work.

7.1.4 If the checking engineer has any concerns with regard to a design which they are unable to resolve, they should state clearly the nature of their concerns and should not hesitate to advise the client and the original designer of their concerns accordingly.

7.1.5 The checking engineer should advise their client to obtain another opinion if the original design is considered to be seriously at fault.

7.1.6 In the circumstances where a client requests a confidential second opinion, members shall require clients to confirm that the project specification is unchanged and that they will be provided with all the documents and all relevant correspondence (including emails and SMS texts or other media) passing between the client and the original designer.

7.1.7 Except where a member has concerns with regard to the original design, members shall ensure that clients are aware that an alternative design solution does not necessarily indicate that the original design is flawed.

- 7.2 In the public as well as in the client's interest, a member may accept an appointment as a replacement for another engineer. This should not occur before the replacing member is satisfied that the appointment of the original engineer has been terminated or that adequate steps are in hand to resolve any outstanding matters, including fees, between the client and the original engineer.
- 7.3 Members should not approach a client and seek to supplant another person already appointed by the client.
- 7.4 Use of social media
 - 7.4.1 Members should have regard for the guidelines on the use of social media available on istructe.org

8. Avoid conflicts of interest

- 8.1 Members should declare any interest which may influence professional judgment, before accepting a commission or at any time when it becomes apparent.

USEFUL LINKS

Engineering Council Statement of Ethical Principles
www.engc.org.uk/professional-ethics

IStructE Business Practice Notes
www.istructe.org/tsemaster/article-series/business-practice-notes

Structural Engineers Registration Limited ('SER')
www.ser-ltd.com/

Companies House
beta.companieshouse.gov.uk/

The Party Wall Act etc 1996 Explanatory booklet
www.gov.uk/guidance/party-wall-etc-act-1996-guidance

Expert witness Civil Procedure Rules (CPR)
www.justice.gov.uk/courts/procedure-rules/civil/rules/part35

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