

Advisory note regarding ECSA's Disciplinary Procedure

By Advocate Pieter Fourie

The Engineering Council of South Africa (ECSA) is a statutory body established in terms of the Engineering Profession Act, Act 46 of 2000 (EPA). An important focus of the Act is to promote the safety, health and interest of the public as these are affected by the engineering work and professional conduct of persons registered with ECSA.

ECSA's role, in partnership with the State and the engineering profession is to promote an appropriate level of education and training of practitioners in the engineering profession. This will assist in enabling full recognition of professionalism, both locally and abroad. ECSA enjoys full independence of the profession in the fair and transparent administration of its business and in the pursuit of its goals, even though it is accountable to the State.

Should there be any act of improper conduct by a registered professional; a complainant who is any member of the public can file a complaint to ECSA regarding the deed. A complaint can be lodged through an affidavit/affirmation, which is available on ECSA's website (www.ecsa.co.za). The affidavit/affirmation must include detailed allegations brought against the registered person and any documentation to substantiate those

allegations.

After a complaint has been received by ECSA, ECSA will in turn send a copy of the complaint to the respondent with an invitation to comment. The complaint will be laid before ECSA's Investigating Committee and a member of the committee will be appointed to assess the complaint.

The complainant may be required to consult with ECSA's legal representative responsible for presenting the case to the disciplinary tribunal, and to testify at the disciplinary hearing. ECSA will endeavour not to put witnesses to any unnecessary inconvenience during this process. Civil and criminal litigation against the respondent are different processes from ECSA's role in investigating unprofessional conduct and the two processes may run concurrently.

A registered person found guilty of improper conduct may appeal to the Council of ECSA within 30 days from the day s/he is sanctioned. If the appeal is dismissed, the complainant can lodge an appeal within 30 days with the Council for the Built Environment (CBE) and if dismissed by the CBE, the matter can then be heard in the High Court.