

Sizing up members

In the November/December 2006 issue, Ron Ruta of Mississauga took the time to communicate his opinion, entitled "Missing the point" (*Engineering Dimensions*, p. 8). In his letter, Mr. Ruta points out that an absence of complaints is not proof that the complaints process works. In fact, it may indicate a deeper problem. I tend to agree with Mr. Ruta.

If we have indeed lost control of the engineering profession, either because of member apathy or because of ineffective tools to investigate and report inappropriate conduct, should we not first take a hard look at what kind of people we are recruiting into our profession? If things are so bad, how did they get this way? I believe to be successful at something you always have to start with good people. Perhaps as an association we haven't been letting enough good people into our profession, or conversely, and probably more correctly, we haven't been doing a good enough job keeping the wrong people out.

When I applied for my engineering licence, I was surprised to learn that there was no requirement to attend and pass a personal character interview prior to being granted a licence. I believe this is a critical oversight on the part of PEO and such an interview should be mandatory to determine if a candidate possesses what I would consider "professional grade character." In some small way, at least, such an interview would help strengthen our claim of always conducting ourselves in a moral and ethical manner. Reviewing licence applications

and calling references is one thing, but meeting someone in person and seeing how they conduct themselves in public, in front of their peers, is quite another. I don't know of any employer who hires without first sizing up their candidates in person. Why should PEO do anything less?

Daniel J. Rolph, P.Eng., Lively, ON

Our duty

I am writing in response to Amjad Farran's letter published in the January/February 2007 issue regarding the idea of redefining wearers of the iron ring to be only licensed engineers ("A ring does not an engineer make," *Engineering Dimensions*, p. 9).

I am a recent engineering graduate who, like others, wears my iron ring to remind me of my duties and responsibilities. I work in the field of engineering where I design, calculate and check work that is designed to serve the public. I feel I am obliged to ensure my work is satisfactory, speak up when I feel something is wrong with a design, or see something that could be of concern to the public. It may not be my legal responsibility in the end, but I do carry a moral responsibility to ensure what I do is in the best interest of our society.

While I believe that engineering graduates who work in a different field should not wear the ring, engineering graduates who work in the field of engineering should wear the ring to remind them that they, too, still have a duty to serve the public to the best of their abilities, regardless of whether a professional

engineer assumes the legal responsibility for their work.

Tyler Lahti, EIT, Toronto, ON

The best plan yet

Browsing through the March/April 2007 issue of *Engineering Dimensions*, I came across John Fryer's letter to the editor, titled "Some solicited advice" (p. 9), and I would like to add my wholehearted support for his proposal for developing the strategic plan for the elevation of the status of engineers.

I am also a retired P.Eng., and over the years I also followed the discussions of how we must improve the public image of engineers, but never did I come across any concrete plans as to how this might be implemented. Furthermore, I must confess that my career as a P.Eng. has been, as so aptly stated by John Fryer, "cemented" into the employee status. Many times during my career, I wished that my education had exposed me to the "other key competencies" that John mentions in his letter.

John Fryer's succinct and comprehensive proposal for the development of the strategic plan is the best plan that I have seen yet and I hope that, for the future benefit of the profession, PEO will give this proposal serious consideration.

Frank Pospisil, P.Eng., Toronto, ON

Professional navel gazing

I have been inspired (or provoked) by Jack Welch ("Lessons for PEO from Jack Welch," *Engineering Dimensions*, November/December 2006, pp. 45-49) and John Fryer ("Some solicited advice," *Engineering Dimensions*, March/April 2007, p. 9) to express my agreement with their thoughts on our profession, and to share with others my disgust at our association's incapability of advancing our status in society. This is after some 54 years of engineering practice.

After 15 years of project management in the oil fields of Alberta and refineries and chemical plants in Ontario, I was fortunate to be invited to use that experience in the planning and operation

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of McMaster Health Sciences Centre, Winnipeg Health Sciences and the Royal Victoria Hospital in Barrie, with a short stint as engineering consultant at the Ontario Hospital Association for all Ontario hospitals. That is how I really learned how other professions in our society have such little respect for engineering, especially in our province.

All hospital boards have the distinction of being composed of the community's leaders and thus a high percentage of professionals. Yet all such boards with very few exceptions have hired "stationary engineers," or in many cases just tradespeople to be totally in charge of the most sophisticated life sustaining equipment imaginable. The public is always wondering why we have so much infection and patient problems in our health care facilities. It would take a thousand pages to list all of the aberrations I have found, yet it is a monumental task to successfully implant the significance of these to "the board." They still think of engineers as running trains or running around shooting off little cannons. So much for our community status.

I have been retired for some years; however, my interest in our profession has not wavered. But I am fed up with the years of personality promotion and constant navel gazing by those who are elected to purportedly advance our community standing and respect. I doubt if I will continue to be a member of the association any longer.

Ray F. Smith, P.Eng., Burk's Falls, ON

The expert report

I read with interest how PEO pats itself on the back for the wonderful job it does prosecuting engineers. Of particular note was the discussion about the use of the expert report. The interviews with Neil Perrier, LLB, legal counsel for PEO ("Prosecution upholds public confidence in self-regulation," *Engineering Dimensions*, July/August 2006, pp. 60-61), and Gary Gibbs, LLB ("Balancing openness with defendants' rights," pp. 62-63) provide some enlightenment to a deeply rooted problem, if you read between some lines. I believe the depth of the problem is emphasized by the fact that *Engineering Dimensions* devoted an entire issue to the

topic. Perhaps PEO is developing a defensive position because the complaints against it are mounting. Even the Ontario Society of Professional Engineers is trying to have PEO's practice of holding secret evidence changed. But PEO is like an impenetrable brick wall that will decide on its own without checks and balances what is best for its members.

In Mr. Gibbs' interview, he was asked about a previous recommendation to have an expert report made available to the defendant sooner. This appears to be a sticky issue. Let me provide some

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extra insight into the process that the magazine does not highlight.

The investigator on a complaint file will provide the practitioner with a brief synopsis of the complaint on a standard form. The practitioner is offered a chance to respond if they choose. There is no direction provided as to what is required to actually provide a defence. And what they also don't tell you is that this is the *only* chance to submit anything to the [Complaints] Committee.

The investigator will [sometimes] hire a third party "expert" to provide a report on the information that is collected by PEO. If the information that is collected is incomplete, the "expert" report is also incomplete. Mr. Gibbs responds to the question, "It is very difficult for a practitioner to make a full response to a complaint when the expert report, upon which the Complaints Committee will surely place significant weight, is not received and available for rebuttal." So the committee receives this "expert" report and there is no comment from the prac-

itioner. Of course, the committee will rule against the practitioner. Nothing has been submitted out of the boxes of documentation that are available.

So the practitioner's name goes into Gazette with a list of all the allegations against him or her, namely negligence and incompetence. Then the phone starts ringing: "Can you explain this action against you?" You can plead your case to the potential client on the phone all you want, but your name has been published right beside the words *negligent* and *incompetent*. There is no defence to that.

Now you look around to find a lawyer. "How much will that cost?" you gasp after you hear the estimate. If you've never hired a lawyer, you'll realize they have substantially higher charge-out rates than engineers.

Mr. Perrier was asked in his interview, "Do you think there is an undue emphasis on plea bargaining?" He replies that investigators are doing an "excellent" job of gathering information, and so plea bargaining is not overemphasized. But yes, the practitioner is asked to plead guilty in return for a shorter and less expensive hearing, which they will surely have to pay for at the end anyway. Mr. Perrier is then asked, "Is there a perception that once a case gets to the discipline panel, it is almost certain to result in an admission of professional misconduct or incompetence?" Why did the interviewer ask that question if there is not a perception of certain guilt?

Mr. Perrier was asked if the system was working "relatively well." It is a curious use of the word "relatively." It seems as though

there is something wrong with the system if it only runs “relatively” well. Relative to what? Perrier responds: “Disciplinary proceedings are, by their very nature, adversarial.” He wasn’t asked if the defendant must go through an aggressive adversarial process; he was asked if the system was working well.

Secret evidence? Adversarial proceedings? Plea bargaining? Certain guilt?

Jeff Udall, P.Eng., Cambridge, ON

Easy targets

I agree with the need for the discipline process. The public deserves protection. Members also deserve protection from frivolous and vexatious complaints. I recently experienced the process based on a frivolous complaint made by a competitor after he was embarrassed in court at a trial where he failed to qualify as an expert. Imagine my surprise when the Complaints Committee passed it along to Discipline and they found me guilty of an offense, but not the one that was alleged by the complainant.

Forensic engineers are the latest targets of this process. Fire investigators and accident reconstruction experts working with the public are easy targets. Accident reconstruction and fire investigation are

not engineering disciplines. High school graduates with a few weeks of special training work in both areas. If PEO feels this is practising professional engineering they should be taking action against all the non-engineers.

Forensic engineers investigate incidents. We offer opinions to assist in decision making by our clients. Our reports provide opinions and facts to support them. Each party hires its own experts. The legal process works well. Judges decide which opinions are best supported by evidence. How could this process endanger the public?

A complaint to PEO based on a difference of opinion or as an act of revenge should not get beyond the Complaints Committee, but mine did. The complaints process is flawed and improperly administered by PEO staff.

The last review of the process by then Complaints Review Councillor David J.D. Sims (“Examination of Procedures for the Treatment of Complaints,” *Engineering Dimensions*, September/October 2005, pp. 33-40) pointed out the biggest flaw in the system, but PEO refuses to make changes in that area. That is the lack of disclosure of expert reports prior to the Complaints Committee hearing.

PEO has investigators on staff, who are to investigate the complaint and prepare a submission to the Complaints Committee. It appears that there was very little investigation done. I never heard from the investigator prior to the Complaints Committee hearing. The documentation from the complainant was sent off by PEO for review by an expert. He prepared a report based on this documentation. I was not given a copy until after the Complaints Committee had met.

The expert report relied upon by the Complaints Committee was inaccurate due to incomplete documentation provided to them for review. The committee members did their job, but the investigation staff did not provide all the facts to the committee, as the Act stipulates.

If the expert report had been made available to me, I could have provided documentation to show the problems with that report, before the Complaints Committee review. The process failed me as it has other members. After the Complaints Committee rules that the matter should proceed, the damage is done, and there is no appeal.

Statistics show me I couldn’t win, with 59 of 60 cases ending in convictions. This shows the bias in the system against the members. Others before me have pled guilty when they felt no guilt, just to end the process and the legal expenses.

Does this system sound like it is fair and working well? Just needs some fine-tuning? Don’t be surprised if the flaws lead to lawsuits against PEO for damages. Is this how you want your dues spent?

Rene Caskanette, P.Eng., Kitchener, ON

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