

Engineers' responsibilities that should not be taken lightly



As professionals, engineers have a duty to fulfill their obligations and responsibilities, whether they are in a position of authority or simply an employee. If they commit malpractice, they cannot escape their obligations by shifting the responsibility to a third party, such as their employer, their employee or their client.

This means that when engineers practice their profession, they are required to fulfill a series of obligations and responsibilities. But what happens when they commit malpractice? What laws and bodies will be used to judge the offences? Here are a few examples of offences and their consequences, based on the main types of professional obligations and responsibilities. It should be noted that an offence may result in more than one type of proceedings.

ETHICAL OBLIGATIONS

All members of the Ordre des ingénieurs du Québec must comply with the Professional Code of Québec, the Code of Ethics of Engineers and the related regulations. The

provisions of these laws and regulations are particularly intended to ensure public safety, client satisfaction, as well as the honour and dignity of the profession.

An offence against one or more of the sections of these texts can trigger an inquiry by the OIQ's Office of the Syndic, which will submit a complaint to the Disciplinary Council if the evidence justifies such action. An engineer who is found guilty is mainly liable to be reprimanded, fined or temporarily or permanently struck off the OIQ's roll; in some cases, engineers may be fined and struck off the roll.

HERE IS AN EXAMPLE OF ETHICAL MISCONDUCT:

Non-compliant structural shoring – structural shoring in a project when the installation work has not yet been completed. The structural shoring is improvised; it was not designed by an engineer or included in the plans and specifications and a soil analysis was not conducted before the work began.

The Disciplinary Council might think that the engineer tried to please the client by preparing the requested document, without any consideration for his or her responsibilities as

an engineer. It may strike the engineer off the roll for violating the following sections of the Code of Ethics:

- 2.01 – “In all aspects of his work, the engineer must respect his obligations towards man and take into account the consequences of the performance of his work on the environment and on the life, health and property of every person.”
- 3.02.04 – “An engineer must refrain from expressing or giving contradictory or incomplete opinions or advice, and from presenting or using plans, specifications and other documents which he knows to be ambiguous or which are not sufficiently explicit.”

CIVIL LIABILITY

Engineers are subject to civil obligations related to the contract that has been signed with their client (contractual obligations), in addition to the civil obligations related to their deeds and actions, or their omissions, toward third parties (extra-contractual obligations). These obligations are specifically derived from the Civil Code of Québec, a general law whose provisions govern relations between people and relationships between people and property.

Accordingly, engineers are responsible for the harm they cause to others if it is the consequence of acts, errors, negligence or omissions they commit when executing their professional work, provided these constitute a “fault” in the meaning of civil law. They can then be taken to court for the damage they have caused.

HERE IS AN EXAMPLE OF CIVIL LIABILITY OFFENCE:

Un stationnement à reconstruire – L'A parking lot has to be rebuilt – Because granular material that does not comply with the standards of Québec's Ministry of Transportation was used, a parking lot has to be rebuilt a few years after it was developed. The engineer is taken to court for requiring this material in his plans and specifications, when the material does not even meet the requirements of his specifications.

The Court could sentence the engineer to pay for some of the damages sustained by the owner, i.e. the cost of rebuilding the parking lot.

PENAL AND CRIMINAL RESPONSIBILITY

Engineers who violate a penal law may be held liable for it. A penal offence is liable to a fine. A criminal or penal

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offence can specifically lead to a fine or jail time under the Criminal Code of Canada.

Engineers must rigorously comply with regulations respecting occupational health and safety since complaints can be lodged against them if they commit an offence. Plus, they may be found criminally responsible if they show wanton or reckless disregard for the life and safety of others (criminal negligence). Pursuant to section 217.1 of the Criminal Code, engineers authorized to direct how another person does work or performs a task have the legal duty to take reasonable steps to prevent bodily harm to that person, or any other person, arising from that task.

HERE IS AN EXAMPLE OF A CRIMINAL OR PENAL OFFENCE:

A shopping centre collapses – An engineer inspects the roof of a public building. A few weeks later, part of its roof collapses, causing deaths and bodily harm. The collapse could be attributed to the corroded structure.

The engineer may be taken to court for criminal negligence if it is proven that she showed wanton or reckless disregard during the inspection.

RESPONSIBILITIES THAT MUST BE ASSUMED

As professionals, engineers have a duty to fulfill their obligations and responsibilities, whether they are in a position of authority or simply an employee. If they commit malpractice, they will not be able to escape their obligations by shifting the responsibility to a third party, such as their employer, their employee or their client.

For that reason, engineers must have in-depth knowledge of the laws and regulations governing their practice. In doing so, they can exercise proper professional judgment to protect the public and meet society's needs. In addition, they considerably reduce any risk of being taken to court.