

– GOOD CHARACTER GUIDELINE



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INTRODUCTION

INTRODUCTION

“WITHIN THE CHARACTER OF THE CITIZENS LIES THE WELFARE OF THE REPUBLIC.”
- MARCUS TULLIUS CICERO (106-43 BC)

This guideline was developed to help define what is meant by “good character” and explain why it is important within the engineering and geoscientific professions in Manitoba and in the best interest of the public.

Good character is a requirement of engineers and geoscientists in Manitoba and of every regulator across Canada. Character is defined as the combination of qualities which distinguishes one individual from another. Good character connotes moral and ethical strength and includes traits such as integrity, candour, honesty, and trustworthiness.

The evaluation of character, and the agreement of what is of good or bad character is subjective and fluid. Some behaviours and attitudes that were tolerated or even encouraged, 50 years ago are no longer considered acceptable. Our evaluation of character is influenced by social mores, which vary based on culture and location, and change with time.

This guideline explains why character is important within the engineering and geoscientific professions, in the best interest of the public, what types of behaviours are considered good or bad character, and how Engineers Geoscientists Manitoba assesses the character of applicants and practitioners.



IMPORTANCE



IMPORTANCE

The purpose of regulating the practice of engineering and geoscience in Manitoba is to safeguard life, health, property, economic interests, public welfare, and the environment. In Manitoba, the provincial government has recognized engineering and geoscience as professions and has given them the privilege of the exclusive right to practise engineering and geoscience, and with it, the responsibilities of self-regulation.

The public trusts that engineers and geoscientists have the technical and ethical competence to serve society and have a willingness to put the public interest first. As the public may lack specialized knowledge, they typically form opinions about practitioners based on interpretation of character. Therefore, individual practitioners need to demonstrate good character in order to maintain public trust, and with that, the right of self-regulation.

The engineering and geoscientific professions understand that public trust is carefully conferred and must be protected; trust is fragile and easily lost. In the best interest of the public, Engineers Geoscientists Manitoba therefore seeks to ensure:

- that all applicants are of good character before admitting them, and
- that all registrants maintain their good character and uphold the reputation of the profession.

This requirement is not unique. In fact, most self-regulated professions in Canada have similar obligations for similar reasons. Self-regulation is not possible without trust, and the simplest way to gain and maintain that trust is through the good character of individual practitioners.



DEFINING GOOD CHARACTER

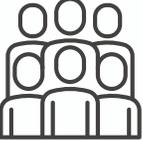


DEFINING GOOD CHARACTER

3.1 Definition

Character is defined as “1. the collective qualities or characteristics, especially mental and moral, that distinguish a person or thing. 2. moral strength. 3. reputation.”¹

“Good character” is generally held to comprise three elements:

- 1.**  the ability to tell the difference between right and wrong,
- 2.**  the courage to do what’s right, no matter the personal consequences, and
- 3.**  the ability to assess these issues, within the context of the practice of the profession, in the best interests of the public as a whole.

3.2 Traits of Good Character

Assessing an individual’s character is difficult unless you can observe them making the types of decisions described above. It is therefore helpful to define traits of good character which can more easily be observed and evaluated.

The six most common traits of good character are:

1. Trustworthiness: If you are trustworthy, you are honest, loyal, and reliable - you do what you say you’ll do. You have the courage to do the right thing, and you don’t deceive, cheat, or steal.

2. Respect: Showing respect means being considerate of others and tolerant of differences. It also means using good manners. You make decisions that show you value your health and the health of others. You treat people and property with care.

3. Responsibility: Being responsible means using self-control – you think before you act and consider the consequences. You are accountable for your choices and decisions and you don't blame others for your actions. Responsible people try to do their best and they persevere even when things don't go as planned.

4. Fairness: If you are fair, you play by the rules, take turns, and share. You are open-minded, and you listen to others. You don't take advantage of others and you don't assign blame to others.

5. Caring: A caring person is kind and compassionate. When you care about others, you express gratitude, you are forgiving, and you help people in need.

6. Citizenship: If you advocate for a safe and healthy community, you are demonstrating good citizenship. A good citizen obeys laws and rules and respects authority. Being a good neighbour and cooperating with others are also parts of good citizenship.

It is not necessary to display all these traits in order to be “of good character”. However, they are indicators which would lead one to believe that an individual does possess good character.

¹ Barber, Katherine (ed.), Canadian Oxford Dictionary. Oxford University Press Canada, 1998

² <http://charactercounts.org/sixpillars.html>. Retrieved November 27, 2012

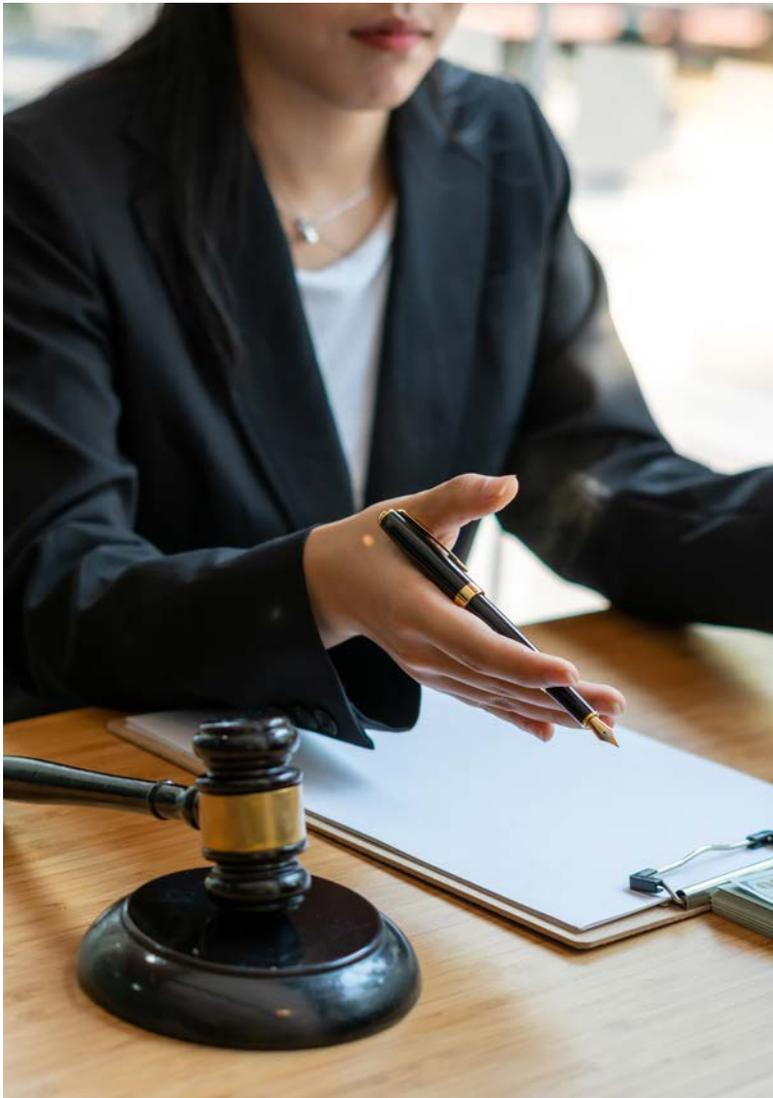
3.3 Conduct Unbecoming

Acting without good character can constitute as “conduct unbecoming”, which is a section of professional misconduct and can become a serious issue.

Conduct unbecoming can include:

- Conduct on the part of a certified professional that is contrary to the interests of the public served by that professional
- Behaviour which harms the standing of the profession in the eyes of the public

To avoid instances of conduct unbecoming, and therefore professional misconduct, practitioners must maintain good character.



ASSESSING CHARACTER



ASSESSING CHARACTER

4.1 Applicants for Licensure

To assess the character of applicants, Engineers Geoscientists Manitoba may employ tools such as:

- Character references
- Character-related questions on the application form
- Requiring applicants to pass the Professional Practice Exam (PPE), which includes topics on ethics and the Code of Ethics
- Criminal background checks

Assessment of character can be subjective, so it is important to consider information from several sources when making an evaluation. A negative finding in any one area does not mean that applicants will be denied licensure, merely that more investigation or a more thorough evaluation may be necessary.

The assessment tools listed above offer the following types of information.



4.1.1 Character References

Engineers Geoscientists Manitoba may ask the opinion of practitioners or others who have had the opportunity to observe the applicant's behaviour first-hand. These professionals are asked to comment on specific aspects, such as integrity, maturity, and professionalism.

Since the evaluation of character is subjective, more than one reference is necessary. Examples of the types of inappropriate behaviour that could be raised at this point include mistreating peers, subordinates, clients, or supervisors.

4.1.2 Application Form

Questions on the application form cover a variety of topics including previous disciplinary actions, investigation, censure, or disqualification by a regulatory body (for negligence, unprofessional, or unskilled practice), criminal offenses, etc.

4.1.3 Professional Practice Exam (PPE)

The PPE is required by Engineers Geoscientists Manitoba to determine if an applicant has a good grasp of legal and ethical matters. Although those who pass the exam may not necessarily have better character than those who fail it, practitioners who never master the PPE are typically not as well equipped to deal with the ethical issues that arise in professional practice.

4.1.4 Criminal Background Check

Given that the purpose of requiring good character is to ensure that practitioners maintain the trust that the public have placed in them, crimes of moral turpitude, defined as "conduct that is considered contrary to community standards of justice, honesty, or good morals are the primary areas of concern for regulatory bodies in Canada". Appendix A contains a table with a list of crimes that involve moral turpitude.

4.2 Practitioners

Once applicants are registered as professionals with Engineers Geoscientists Manitoba, they are expected to maintain their good character and uphold the same high standard of professional conduct. It is through the discipline process that practitioners are held accountable for their behaviour. In most cases, practitioners are not automatically subject to investigation due to criminal offences.

However, anyone may complain against a practitioner and conviction of a criminal offence would be grounds for a complaint and, subsequently, an investigation.

Since Engineers Geoscientists Manitoba is concerned foremost with safety and the public interest, and secondly with the reputation of the profession, crimes that put into question whether a practitioner can uphold those values are considered the most significant. Crimes of moral turpitude can therefore be the grounds for a finding of conduct unbecoming.

During discipline and investigation, a procedure similar to the registration process references is used; more than one individual is asked to comment on their own personal observations of behaviour, based on the complaint.



EXAMPLES



EXAMPLES

The following examples illustrate how character has been evaluated by engineering and geoscience regulators in Canada.

5.1 Applicants for Registration

5.1.1 Criminal Background Checks

An applicant was enrolled in the engineer intern program and was nearing the point where they would be considered suitable for registration as an engineer. It was discovered that the applicant had a criminal record but had not divulged this information to the regulator at the time of application, despite a specific question to this effect on the application form. The Registration Committee (RC) interviewed the applicant to review the matter. The application for membership was subsequently denied on the grounds of a lack of good character for the following reasons:

- the applicant did not accept responsibility for the crimes that were committed,
- the applicant made false statements on the application form, and
- the applicant was not candid in the interview.

5.1.2 History of Bad Character

A former practitioner, who had been written off for non-payment of dues, applied for reinstatement. In the interim between being written off and the application being reconsidered, the individual was subject to disciplinary action. In considering the application for reinstatement, the RC noted the number of disciplinary orders that the practitioner had been subject to in the past and determined that an interview would be necessary. The individual was asked to provide a background on the disciplinary matters, to provide evidence of rehabilitation, and to provide methods of avoiding future complaints from the public. The application for membership was subsequently denied on the grounds of a lack of good character for the following reasons:

- the applicant did not take responsibility for the actions that resulted in multiple disciplinary actions,
- the applicant did not have a plan to avoid repetition of these actions,
- the applicant had a disregard for his duty to uphold and enhance the honour, integrity, and dignity of the engineering profession.

5.1.3 Falsification of Documents

An applicant was enrolled in the engineer intern program when it was discovered that the marks on the applicant's undergraduate transcript from outside of Canada had been falsified to enter a postgraduate engineering program in Canada. The RC required the intern to swear an affidavit that the engineer intern had never forged, altered, or used a forged or altered degree or transcript of other document or otherwise misrepresented their credentials in any way for the purpose of entering an academic program or in connection with the application to the regulator. The engineer intern was unable to swear the affidavit, as they confirmed that they had falsified the bachelor's marks to enter the postgraduate program. The RC advised the engineer intern that if the regulator receives an application for registration as a professional engineer from them:

- this situation will be considered with respect to the good character requirement,
- the regulator will ask what has been done to mitigate the situation, and
- Council may hold a hearing for suitability for admission to membership under the regulator's good character requirement.

5.2 Practitioners

The following examples illustrate how character has been used in the investigation and discipline of practitioners of engineering and geoscience regulators in Canada.

5.2.1 Lack of Trustworthiness

A practitioner was found guilty of having signed and sealed blank sheets of paper. The practitioner was given a three-month suspension and ordered to write and pass the PPE.

5.2.2 Lack of Trustworthiness and Fairness

A practitioner who was as a Field Engineer with the Ministry of Forests and responsible for awarding engineering contracts, was found to have set up a company in his wife's name, bid on Ministry jobs, and done work on Ministry time. The practitioner was suspended for a period of 14 months.

5.2.3 Lack of Respect or Caring

A practitioner with concerns about the structural integrity of a bridge wrote emails stating that the responsible bridge engineer was incompetent.

The emails were found to be aggressive and forceful to the point that they were considered professional misconduct. The practitioner was suspended until they were willing to provide an apology for the conduct. The practitioner's licence was later revoked for failure to pay dues.

A practitioner was found to have discriminated against a graduate engineer, having used derogatory terms to address them and making statements such as "you can dance on tables for me, but you will never work for me". The practitioner was found guilty of professional misconduct in that their actions were "disgraceful, dishonourable, and unprofessional". The practitioner's licence was suspended for 12 months and was not to be reinstated until they took a course related to gender sensitivity and paid for the costs of the Discipline Hearing.

A practitioner was found guilty of unprofessional conduct for having repeatedly yelled at a colleague, despite written communication from the colleague indicating that the behaviour upset them and was contributing to health problems. The colleague eventually quit because of the abusive behaviour. A discipline panel concluded that this behaviour was "sufficiently extreme so as to reflect badly on the member and on the profession", and therefore constituted unprofessional conduct. In response to this charge, and to four other charges brought at the same time, related to inflated and inconsistent billing, as well as improper and wrongful filling of liens, the practitioner was found to have acted dishonourably, disgracefully, and to have shown a lack of integrity. To protect the public, preserve the integrity of the profession, deter others from engaging in similar disreputable business practices and renounce the conduct, the practitioner was fined \$5,000 and their licence was suspended for a period of eight months.

5.2.4 Criminal Convictions

Information was received by a regulator that a practitioner had been charged and convicted of possession of child pornography. An investigation was initiated by the regulator. The practitioner signed a resignation agreement with the Investigation Committee, resigning their registration and agreeing not to apply for reinstatement for at least seven years. It was stated that if the practitioner were to apply for reinstatement, they would have to satisfy Council that they were of good character, good repute, and that their conviction did not render them unsuitable before they could be reinstated.

APPENDIX

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The following is a list of crimes that involve moral turpitude, as defined by the United States Department of State Foreign Affairs Manual. These crimes demonstrate conduct that is considered contrary to community standards of justice, honesty, or good morals. Conviction of any of these crimes would normally be cause for an investigation of an individual's character.

Crimes Against Property

Fraud

- Making false representation
- Knowledge of such false representation by the perpetrator
- Reliance on the false representation by the person defrauded
- An intent to defraud
- The actual act of committing fraud

Evil Intent:

- Arson
- Blackmail
- Burglary
- Embezzlement
- Extortion
- False pretenses
- Forgery
- Fraud
- Larceny (grand or petty)
- Malicious destruction of property
- Receiving stolen goods (with guilty knowledge)
- Robbery
- Theft (when it involves the intention of permanent taking)
- Transporting stolen property (with guilty knowledge)

Crimes Committed Against Governmental Authority

- Bribery
- Counterfeiting
- Fraud against revenue or other government functions
- Mail fraud
- Perjury
- Harboring a fugitive from justice (with guilty knowledge)
- Tax evasion (willful)

Crimes Committed Against a Person, Family Relationship, and Sexual Morality

- Abandonment of a minor child (if willful and resulting in the destitution of the child)
- Assault (this crime is broken down into several categories, which involve moral turpitude):
 - Assault with intent to kill, commit rape, commit robbery, or commit serious bodily harm
 - Assault with a dangerous or deadly weapon
- Bigamy
- Paternity fraud
- Contributing to the delinquency of a minor
- Gross indecency
- Incest (if the result of an improper sexual relationship)
- Kidnapping
- Lewdness
- Manslaughter:
 - Voluntary
 - Involuntary (where the statute requires proof of recklessness, which is defined as the awareness and conscious disregard of a substantial and unjustified risk which constitutes a gross deviation from the standard that a reasonable person would observe in the situation. A conviction for the statutory offense of vehicular homicide or other involuntary manslaughter only requires a showing of negligence will not involve moral turpitude even if it appears the defendant in fact acted recklessly)
- Mayhem
- Murder
- Pandering
- Prostitution
- Rape (including “Statutory rape” by virtue of the victim’s age)

Attempts, Aiding and Abetting, Accessories, and Conspiracy

- An attempt to commit a crime deemed to involve moral turpitude
- Aiding and abetting in the commission of a crime deemed to involve moral turpitude
- Being an accessory (before or after the fact) in the commission of a crime deemed to involve moral turpitude
- Taking part in a conspiracy (or attempting to take part in a conspiracy) to commit a crime involving moral turpitude where the attempted crime would not itself constitute moral turpitude.

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