



*Approved on 9 July 2004  
Effective from 9 July 2004*

## **The Institute of Hong Kong Architectural Technologists**

### **Conduct & Disciplinary Procedures**

- A. These Conduct & Disciplinary Procedures are published under Article 7 of the Articles of Association approved by the Institute at the Annual General Meeting held on 9 July 2004.
- B. These Procedures were approved at the Annual General Meeting held on 9 July 2004 becoming effective from 1 January 2005.
- C. In these procedures the words standing in the first column of the following table shall bear the meaning set opposite to them respectively in the second column if not inconsistent with the subject or context:

**WORDS:**

"Institute"

"Committee"

"Hearing"

"Schedule of Written Evidence"

"Appeals Procedure"

"Members' Response Form"

"In writing"

**MEANINGS:**

The Institute of Hong Kong Architectural Technologists.

The Institute Committee

The method by which the Conduct Committee considers the charge against the member.

The bundle of documents to be considered by the Conduct Committee at the hearing.

A special Working Group to consider appeals against decision by the Conduct Committee following a hearing where a charge has been proven.

The method by which the member replies to the complaint.

Written, printed or lithographed or partly one or partly another or produced by any other modes of representing or reproducing words in a visible form.

Words importing the singular number only shall include the plural number and vice versa.

Words importing the masculine gender only shall include the feminine gender.

Words importing persons shall include corporations.

#### **Conduct Committee**

1. There shall be a Conduct Committee, the "Conduct Committee" which will examine any charge made against a member arising out of the Code of Conduct or any complaint made against a member who is deemed to have conducted himself in a manner inconsistent with the status of a member of the Institute and shall report to the Committee any disciplinary action to be taken against a member.
2. a. The Conduct Committee shall be established by the Committee and normally comprise the Chairman, the Honorary Secretary, the Immediate Past Chairman or Vice-chairman as appropriate, and two Members of Committee.

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- b. Should the member or complainant be known to any Member/s of the Conduct Committee or should there be any potential conflict of interest the Committee shall have the power to nominate other Members onto the Conduct Committee as necessary for the purpose of the investigation of the particular case. All actions to be undertaken should be in the strictest confidence.
- c. The quorum for the Conduct Committee shall be not less than five. If the Honorary Secretary is absent, is known to the member, or if there is a potential conflict of interest one of the Members present shall take on the duties of the Honorary Secretary.
- d. The Chairman or Honorary Secretary shall have the power to nominate Member/s onto the Conduct Committee in the event that the meeting may become inquorate. The nominated Member shall either be a serving Committee member or a former member of the Conduct Committee. The nominated Member/s may only serve for as long as the particular case or cases being considered is or are open

### **Proceedings**

- 3. The Conduct Committee shall have the powers:
  - a. to investigate the conduct of any member against whom a complaint has been received;
  - b. to formulate and determine such written charges as it thinks fit after investigation;
  - c. to appoint a barrister or solicitor to act as an Assessor, as detailed in Schedule 1 hereto on the Conduct Committee;
  - d. to recommend disciplinary action as set out in Schedule 1 hereto.
- 4.. A member against whom a charge has been made shall:
  - a. be warned that any statement he may make could be used as evidence by the Conduct Committee;
  - b. be sent a complete copy of the Schedule of Written Evidence being considered by the Conduct Committee at the Hearing, as detailed in Schedule 1 hereto;
  - c. be informed of the charge and be given the opportunity to answer in writing, which, if accepted, shall be sent to the Honorary Secretary within 28 days;
  - d. be informed that the member's response shall be sent to the complainant for further comment. The complainant shall make further comment within 14 days;
  - e. be informed that the time limit within which an answer shall be made may be extended on application to the Honorary Secretary if in his opinion there is good and sufficient reason for extension;
  - f. be given at least 28 days' notice in writing of the day, place and time appointed for the hearing by the Conduct Committee;
  - g. be informed that he may elect to attend in person before the Conduct Committee and make explanation, (but not to be present during the Conduct Committee's deliberations);
  - h. be sent a copy of these procedures.

5. The first duty of the Conduct Committee is to determine whether there is a prima facie case for the member to answer. For this purpose, the Conduct Committee shall not hold a formal hearing but will consider each charge or complaint together with its supporting documents and the member's response, and, if satisfied that a prima facie case has been established, shall notify the member and the complainant accordingly with the details of the date of the Conduct Committee hearing which shall examine the charge of complaint.
6. A member against whom a question of discipline has been raised for consideration by the Conduct Committee shall have a right of hearing either in person or by a friend, to call witnesses on his own behalf and to examine and cross-examine any witness called before the Conduct Committee to give oral evidence. However, no member may be legally represented before the Conduct Committee unless a minimum of 21 days notice has been given to the Honorary Secretary in writing.
7. The Conduct Committee may at any time during the examination decide that there is no case to answer in which case no report shall be made to the Committee, and there shall be no right to request an appeal of this decision.
8. If the Conduct Committee considers the charge to be proved, it shall then agree the appropriate disciplinary action to be taken against the member. A report shall be made to the Committee with the name, registration number of the member, the charge and the summary of findings and its recommendation for disciplinary action.
9. The Committee shall receive the report in confidence. The Committee shall receive the Conduct Committee's report and recommendations and the Committee shall endorse the decision of the Conduct Committee.
10. Once the decision of the Conduct Committee is endorsed by the Committee the Honorary Secretary shall notify the member and the complainant by recorded delivery post, of the decision and its recommendation for disciplinary action. The parties shall also be informed of the Appeals Procedure, the grounds for requesting an appeal and the applicable time limits.
11. The Committee shall approve the operation of Appeal Procedure.
12. No publication shall be made until the 28-day period for commencing the Appeal Procedure has elapsed. If a request for an appeal is made the Committee shall be notified.
13. If After the 28 days period for commencing the Appeal Procedure has elapsed and no request for an appeal has been made, then the decision as endorsed by the Committee shall be published in the next issue of the Institute's publication giving the name, registration number of the member, the charge and the Committee endorsement of the disciplinary action.
14. Save as provided for in paragraph 12 no disclosure of any kind shall be made by any member of the Committee or the Conduct Committee to any person concerning any matter which is or has been the subject of a charge. Proceedings of the Committee and the Conduct Committee in regard to discipline shall be held in secret unless the Institute Committee on the recommendation of the Conduct Committee shall decide otherwise to ensure compliance with any legal obligation.

15. The proceedings for hearing and determining a charge shall be conducted in accordance with the Disciplinary Procedure Directions set out in Schedule I hereto. The Conduct Committee shall be empowered to give such other special directions as the Conduct Committee considers necessary to supplement these procedures.

### **SCHEDULE 1: Disciplinary Procedure Direction**

#### **Responsibilities of the Assessor**

1. It shall be the duty of any assessor appointed by the Conduct Committee for the hearing of the charge under the Conduct and Disciplinary Procedures:
  - a. to take notice of:
    - (i) the Articles of Association of the Institute;
    - (ii) the Code of Conduct of the Institute;
    - (iii) the charge and the evidence in support;
    - (iv) the answer of the respondent to the charge; and
    - (v) any other document which the Honorary Secretary may specify and which is pertinent to the proceedings;
  - b. to inform the Conduct Committee of any irregularity in the conduct of the proceedings relating to the charge which may come to his notice and to advise the Conduct Committee where it appears to him that but for such advice there is a possibility of injustice or a miscarriage of justice;
  - c. to advise the Conduct Committee on any question of law or the admission of evidence arising in the proceedings which they may refer to him; and
  - d. to tender advice on any question of regularity, justice, law or admissibility of evidence arising in the proceedings which the Honorary Secretary may specify.

#### **Submission of Answer to the Charge**

2. The written answer of the respondent to which the procedures refer at paragraph 4 c. of the Conduct and Disciplinary Procedures shall be in the Members' Response Form or other statement as agreed by the Honorary Secretary and signed by the respondent himself.
3. If the respondent intends to defend the charge he shall state the reasons for his defence in his written answer, and at the same time he shall indicate any evidence he intends to adduce in support of his defence which is not referred to in the Schedule of Written Evidence in support of the charge.
4. The respondent shall provide such supplementary answers as may be reasonably required by the Conduct Committee or by the Honorary Secretary.
5. The respondent shall give reasonable notice if he intends to call witnesses.

#### **Attendance of Witnesses**

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6. Witnesses shall not be called without leave of the Conduct Committee, which may require the respondent or any person acting for the respondent to indicate the matter on which the proposed witness is to give evidence, for the Conduct Committee to decide whether such matter is pertinent to the proceedings and whether the Conduct Committee will accept it without further proof.

### **Arrangements for Hearing**

7. When the respondent elects to attend in person, the order in accordance with which the hearing of a charge will normally proceed shall be as follows:
  - a. The respondent will be called before the Conduct Committee.
  - b. The Conduct Committee will make themselves known to the respondent.
  - c. If the respondent is accompanied by others he will make them known to the Conduct Committee, or the person by whom the respondent wishes to be heard will make himself and those with him known to the Conduct Committee.
  - d. The procedure to be followed will be explained by the Conduct Committee.
  - e. The charge will be read and the respondent's written answer taken into consideration.
  - f. The Conduct Committee will put to the respondent any questions arising out of the charge and the evidence in support of the respondent's written answer which the Conduct Committee considers pertinent.
  - g. The respondent himself, or his representative will be given the opportunity to address the Conduct Committee.
  - h. After the Conduct Committee has heard the respondent (or his representative) and any witness, the respondent (or any person with him) will be informed that the Conduct Committee will make their report on the charge to the Committee.
8. In the event of any party failing to appear at the hearing, the Conduct Committee may dispose of the case in the party's absence. The Conduct Committee has the power to order a re-hearing if the member does not appear and is not represented at the hearing.
9. If the member elects not to attend the hearing, the Conduct Committee has the authority to consider the case in his absence.
10. The Conduct Committee shall take reasonable steps to accommodate the member if he wishes to attend the hearing but requires an alternative date. The decision to re-schedule the hearing is to be taken by the Honorary Secretary if in his opinion there is good and sufficient reasons following a written application by the member detailing the reasons for the request.

### **Requirements for an Adjourned Hearing**

11. Where a hearing has been adjourned it may be resumed by a subsequent meeting of the Conduct Committee provided it is composed of the same persons.
12. The Conduct Committee at a subsequent meeting may take notice of evidence or decisions recorded in the minutes of the adjourned hearing.

### **Schedule of Disciplinary Action**

13. When a charge is proved, the Conduct Committee shall recommend one of the following disciplinary actions:
- a. To require the member to give an undertaking in writing to refrain from further contraventions of the Institute's Code of Conduct.
  - b. To reprimand the member and require the member to give an undertaking in writing to refrain from further contraventions of the Institute's Code of Conduct.
  - c. To suspend the member from the Institute for such period as the Conduct Committee may recommend without reassessment.
  - d. To suspend the member from the Institute for such period as the Conduct Committee may recommend with reassessment (Institute policy stipulates that if a full Member ceases his membership, for whatever reason, for more than three consecutive years, the individual must sit a reassessment interview to demonstrate that he has maintained their level of competence by undertaking Continuing Professional Development.)
  - e. To expel the member from the Institute.

**END**