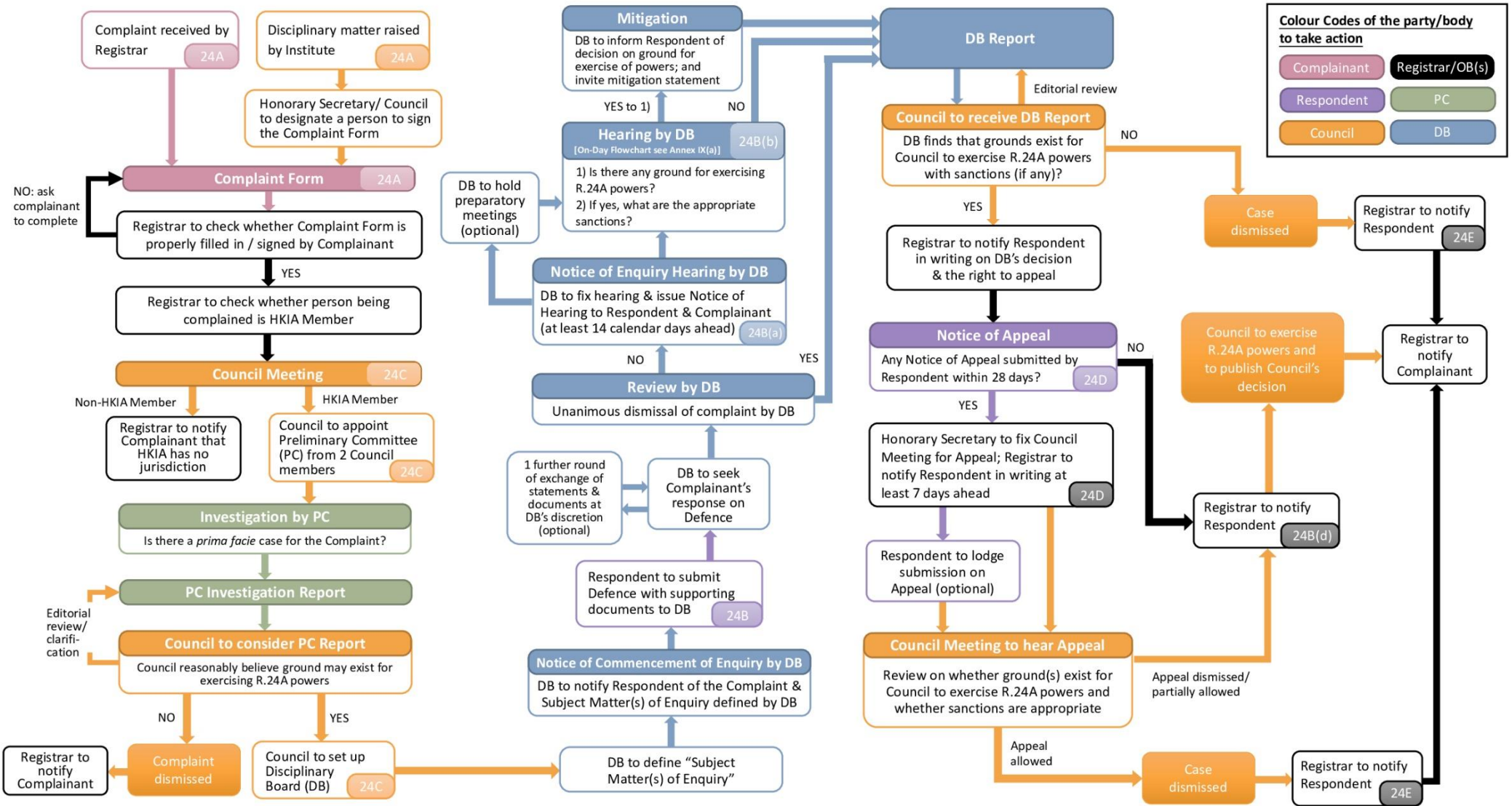


An Overview of HKIA Disciplinary Proceedings

Full Process Flow Chart: an overview





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The Hong Kong Institute of Architects

CONFIDENTIAL

To: The Registrar
The Hong Kong Institute of Architects, Hong Kong SAR
19/F., One Hysan Avenue
Causeway Bay, Hong Kong
(Fax: 2519 6011)

**COMPLAINT AGAINST A MEMBER
OF THE HONG KONG INSTITUTE OF ARCHITECTS**

IMPORTANT NOTES:

The Hong Kong Institute of Architects (the “Institute”) is able to pursue a complaint, only if it is within the jurisdiction of the Institute under the Rules of the Institute (the “Rules”), that

- i) the person being complained has been a Member / Corporate Member / Associate / Affiliate / Graduate Member / Student Member / Retired Member / Non-Resident Member of the Institute (each as a “Member”) when the incident giving rise to the complaint happened and is still a Member, and
- ii) the complaint shall be made in writing to the Registrar of the Institute in the prescribed Complaint Form duly completed and signed by the complainant, and
- iii) the complaint is supported by evidence provided by the complainant that there are relevant grounds under the Rules for disciplinary action.

Before lodging a complaint, please go through the Guidance Notes below.

For enquiries, please contact the Secretariat of the Institute at 2511 6323.



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Guidance Notes

1. The Extent of the Institute's Disciplinary Powers over the Members

Under 24A of the Rules, the Institute can exercise its disciplinary power over a Member if the Member:-

- (a) willfully breaks a rule of the Institute; or
- (b) by his conduct either professionally or otherwise renders him unfit to be a Member; or
- (c) in the opinion of the Council, cause the names of the Institute to be brought into disrepute;
or
- (d) is convicted by a Court of any offence which shall be a breach of either (a), (b) or (c) above

However, the Institute is not a law enforcement body and cannot impose criminal sanction upon a Member. Also, the Institute has no power to deal with compensation in respect of the complaint.

2. How could I make a complaint?

Please complete and sign this Complaint Form and return the same together with all the supporting information and/or document(s) to the Registrar of the Institute ("**Registrar**"). Anonymous complaint will not be entertained.

3. What will happen after I have lodged my complaint?

- (a) The Registrar will check whether the Complaint Form is duly completed and in order.
- (b) The Council of the Institute ("**Council**") will then appoint a Preliminary Committee ("**PC**") to carry out preliminary investigation on the complaint and report to the Council.
- (c) After receiving the report from PC and if reasonably believed to have ground(s) to proceed further/, the Council will appoint a Disciplinary Board ("**DB**") to make enquiry on whether there is/are grounds for exercising the disciplinary powers under the Rules. Private meeting ("**Oral Hearing**") may be called by DB to hear the case from parties concerned.
- (d) After review of report from DB, the Council will decide whether there is/are ground(s) for exercising the disciplinary powers under the Rules, and the sanction imposed, where necessary.



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4. As a complainant, what will I be expected to assist or to observe?

- (a) Your cooperation with the Institute is essential in the investigation of your complaint. Otherwise, the Institute may not be able to process your complaint due to insufficient evidence.
- (b) You may be requested for clarification(s) or further information/document(s) in relation to your complaint, including by means of correspondences and interviews.
- (c) You may be asked to make a declaration of truth to support your complaint.
- (d) If you wish to submit witness statement(s) of other person(s) in support of your complaint, such witness statement(s) should be in the form and manner as designated by the DB and supported by a declaration of truth and a prescribed form of confidentiality undertakings signed by the relevant person(s) making the statement(s).
- (e) You and your witness may be invited by the DB to attend and give evidence at the Oral Hearing, in which case you will be given prior notice about the Oral Hearing.
- (f) At the Oral Hearing, you and your witness(es) may need to answer questions raised by the DB and/or the Member being complained or his/her lawyer.
- (g) By signing this Complaint Form, you undertake to the Institute to keep the complaint and the whole disciplinary proceedings confidential. Save in some exceptional cases such as making necessary disclosure to law enforcement authorities for crime prevention or investigation, you should not disclose to any third party the information about the present complaint without the Institute's prior written consent. In the event of unauthorized disclosure of confidential information or any breach of undertakings, the Institute may stay the disciplinary proceedings or investigation of complaint. The Institute also reserves the rights to take any other appropriate action(s).
- (h) While your personal data provided to the Institute will not be disclosed to the Member or any third party without your prior consent, the information or document(s) in relation to your complaint provided to the Institute may be made known to the Member being complained or relevant third party for the purpose of conducting the disciplinary proceedings and complying with any laws, regulations or guidelines issued by regulatory or other authorities.

5. As a complainant, do I need to engage a legal representative?

- (i) The Institute does not require the complainant to engage legal representatives to assist the complaint.
- (ii) The Institute will only allow legal representation for the complainant at the Oral Hearing (and the related meeting(s) with the Institute, if any) under exceptional



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circumstances. Such decision is at the Institute's absolute discretion.

- (iii) If allowed, the Institute may impose condition(s) for the complainant to attend the Oral Hearing (and the related meeting(s)/hearing(s) with the Institute, if any) with legal representative(s).
- (iv) Legal costs incurred by the complainant (including but not limited to legal consultation and legal representation during the Oral Hearing and the related meeting(s) with the Institute) are not recoverable, even if the complaint is established. In other words, you need to bear your own legal costs.

6. Will I be informed of the progress and the outcomes of the disciplinary proceeding?

Disclosure of information about the disciplinary proceedings in progress is at the absolute discretion of the Institute.

However, the Institute will keep you informed of the outcome of your complaint.

7. As a complainant, can I appeal the decision of the Council regarding my complaint?

The decision made by the Council shall be final. The Complainant cannot appeal against the decision.

SECTION 1 – Complainant's particulars

1. Title Prof. Dr. Mr. Mrs. Ms.

2. Name

3. Address

4. Contact Number *Mobile* *Office* *Fax*

5. I am acting on behalf of a) Myself b) Company / Firm*

** If you are acting on behalf of a company / firm, please complete Question 6a-d.*



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6a. Name of the Company / Firm

6b. Position Director Manager Shareholder Others

6c. Company's Address

6d. Company's Contact Number

7. Are you a legal representative of somebody else?
YES Please fill in the rest of this Question
NO Please go to Question 8

Name of the person on behalf of whom you are complaining

Title Mr Mrs Ms

Name

Address

If you are a legal representative of another person, please send us the written authorization of that person. Otherwise the complaint would not be proceeded.

When we deal with this complaint, who should we write to?

You

The person whom you are representing

SECTION 2 – Details of the Member of the Institute you are complaining about

8. Name of the Member

9. Address



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10. Contact Number *Office* *Mobile* *Fax*

11. The relationship with the Member:

SECTION 3 – Details of the complaint

12. Have you taken your complaint up with the Member who you are complaining about?

YES The outcome is (with supporting documents/ correspondences, if any):

NO The reason is:

13. Have you taken your complaint/claim to other regulatory or adjudicating bodies or organizations?

YES The regulatory or adjudicating body or organization is:

Hong Kong Police Independent Commission Against Corruption

Equal Opportunities Commission Architects Registration Board

Court(s) or Arbitral Tribunal

Others

The outcome/progress is (with supporting documents/ correspondences, if any):

NO The reason is:



14. When did the event that gave rise to your complaint take place?
If there has been a lapse of time exceeding one year in making this complaint, please state the reason accordingly.

| |
|--|
| |
|--|

15. Please state below and/or in the extra sheet(s) appended hereto the events and circumstances giving rise to your complaint and the **relevant evidence(s)** to support your complaint in the following manner:

(Remark: If you are a Member, you may also highlight the specific ground(s) or provision(s) under the HKIA Rules or the Code of Professional Conduct that the complaint is related to.)

(a) Events and circumstances

| Date (in chronological order) | Description of the event(s) (To facilitate the handling and investigation of the complaint, please state factual descriptions only, e.g. what the Member has wrongly done or failed to done.) | Attachment No. (see Part 15(b) below) |
|----------------------------------|--|--|
| | | |
| | | |
| | | |

Extra number of sheets of paper appended to

(b) Evidence(s) in support of your complaint

(e.g. client/architect's agreement, contract drawings, witness statement from other relevant persons)

| Attachment No. | Document(s) |
|----------------|-------------|
| | |



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| | |
|--|--|
| | |
| | |
| | |
| | |

Extra number of sheets of paper appended to

Part 15(b) above

(c) Please state below and/or in the extra sheet(s) appended hereto what is or are your specific dissatisfaction(s) towards the Member or the grievance(s) you think the Member has caused to you in addition to or in alternative to Part16(a) above.

Extra number of sheets of paper appended to

Part 15(c) above

16. Have you lodged any complaint to the Institute on the same issue before?

- YES Date: _____
 NO



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SECTION 4 – Authorization and Declaration

17. I would like the Hong Kong Institute of Architects (the “**Institute**”) to look into the complaint.

I confirm that I have read the guidance notes to this form before filling in this form and agree to be personally bound by them.

I also agree to be personally bound by the rules and procedures of the Institute in relation to the disciplinary proceedings in handling of my complaint and the Confidentiality Undertakings enclosed in this Complaint Form.

I agree that I will provide any further relevant information within my power necessary for the Institute’s disciplinary proceedings in respect of this complaint.

I agree that I will assist the Institute by acting as a witness to appear and give evidence at any meeting or hearing when the Institute commences disciplinary proceedings.

I acknowledge and agree that the personal data given in this form may be used by the Institute for:-

- (i) purposes relating to the performance of its disciplinary role under the Rules of the Institute and may be transferred to the Member that I am complaining against or relevant third party if necessary; and
- (ii) rendering compliance with the relevant laws and regulations, including being kept by the Institute in accordance with the Personal Data (Privacy) Ordinance (Cap. 486) after the Institute has dealt with the complaint.

I understand that I have a right of access including the right to obtain a copy of my personal data from the Institute and to have any mistakes with respect to personal data corrected under the Personal Data (Privacy) Ordinance (Cap.486).

18. ***I understand that the Institute is unable to proceed on unsubstantiated allegations. All relevant documents supporting my complaint are being attached.***

To the best of my knowledge, I declare that the information included and attached to this complaint form is true and complete.

Complainant’s signature : _____ Date: _____



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Checklist

Have you done the following? Please tick whichever is applicable below.

- Given us your full name and a daytime contact phone number.
- Given us the necessary details to identify the Member concerned.
- Given details of what had happened and when it happened.
- Identified the grounds and rules for the Institute to exercise its disciplinary power (optional to non-Member).
- Sent us all relevant documents or evidence (such as contract engaging the Member, construction contract, witness statement of other relevant person(s), etc).
- Stated the outcome of your complaint to other authorities (if any) and sent us the supporting documents and correspondences with such authorities.
- Signed and dated your complaint.

CONFIRMATION OF RECEIPT <for the Institute use only>

Received on _____

Documents Authorization letter

Appendix as per item 16

Checked by _____

(Last updated on 19 June 2020)



香港建築師學會
The Hong Kong Institute of Architects

To: The Hong Kong Institute of Architects (“HKIA”)

Complaint(s) against [Name of the Member being complained]

1. I, [name], am the person making complaint to HKIA against [Name of the Member being complained] by the Complaint Form lodged with HKIA on [date].
2. I undertake to keep the facts of this case, including the contents of any interviews or meetings, strictly confidential. Furthermore, I undertake to keep my opinions about this case or about any other person or about information which may come into my knowledge and/or possession at any stage of the Disciplinary Proceedings (if any) strictly confidential.
3. I understand that if I should breach this undertaking it would harm and discredit the disciplinary proceedings and could adversely affect the evidence given. Furthermore, I understand that any unauthorized breach on my part could seriously prejudice the outcome of the case.
4. For the above reasons I understand that it is my duty to keep strictly confidential my involvement in this case or the Disciplinary Proceedings (if any), the names of the parties involved, the nature of the allegation(s), the content of the evidence or any related information that comes into my knowledge and/or possession and any other matters relating to the case in any way.
5. I understand that should I breach this undertaking the HKIA will consider this to be a serious breach of trust and may lead to consequential litigation (including but not limited to legal action for injunction against me). HKIA may also consider to terminate its investigation or handling of any complaint made by me or any related Disciplinary Proceedings in such event.
6. Notwithstanding that this undertaking is given to the HKIA, I agree and confirm that it shall extend to everyone whose interest is protected by this undertaking and each of them shall be entitled to enforce against me directly if I am in breach of this undertaking without needing HKIA to take any legal action in the first place.
7. I undertake to fully co-operate with HKIA in the investigation and in other proceedings (where necessary) and answer all questions put to me truthfully and openly.

Name in BLOCK Letter:

HKID Card Number:

Signed:

Date: