

9. PROCEDURE FOR DISCIPLINARY INQUIRIES

- (1) In the event of a breach of the Regulations by a Member, Chartered Architect, Architect, Architectural Licentiate or a Practice the Institute may be informed by the following persons or institutions :
 - (a) By the council itself or its Standing Committees.
 - (b) Any Board or its Standing Committees.
 - (c) A Council Member.
 - (d) Member of the Institute, Chartered Architect, Architect or Architectural Licentiate.
 - (e) Member of the public.
 - (f) Any private or public body corporate or non-incorporate.
- (2) On receipt of such information or complaint, Institute shall adhere to the procedure hereinafter setout, whether the informer or complainant is identifiable or non- identifiable.
- (3) The Honorary Secretary or President shall refer the same to the Procedures Committee or Council immediately.
- (4) The Procedures Committee or the Council shall study the information or complaint and if found sufficient to investigate, the information or complaint shall immediately be referred to the Investigation Committee.
- (5) The decision of the Procedures Committee shall be informed to the immediate Council Meeting and the Council shall decide at its discretion and inform the Investigation Committee accordingly, with a copy to the Informer or Complainant under Registered Post.
- (6) If the information or complaint is against a Council Member, Member of a Board or Member of a Standing Committee, the Procedures Committee shall not take up such matter and it shall be taken up by the Council, provided that if it is against a Council Member, such a person shall abstain from attending such Meeting.
- (7) If information or complaint is against a Council Member, Member of a Board, or Member in Standing Committee, such Member shall be informed by the Council in writing and he shall abstain from such Council, Boards or Committees meetings relevant to the information / complaint until the inquiry is completed. Such decision shall be informed to the informer or complainant under Registered Post.
- (8) If the information or the complaint is against a Board Member, Committee Member or a Council Member, the Council shall re-constitute the Investigation Committee or the Disciplinary Committee as may be required.

9.1 Procedure of the Investigation Committee

On receipt of such information or complaint, the Investigation Committee shall adopt the following procedure :

- (1) Study any documentary evidence that has been submitted as information or as a complaint, within seven days.
- (2) Before the end of such period of seven days, if further information is required from both or either of the parties, namely the informer or complainant and respondent, such information shall be called for under Registered Post.
- (3) Such a request for any other explanations, clarifications or necessary information shall be submitted in the form of written memoranda within next fourteen days by the parties concerned. However, based on valid reasons acceptable to the Investigation Committee, the time frame may be extended by a maximum of another seven days.
- (4) The Investigation Committee shall report to the Council within maximum of forty five days, from the original date of reference by the Procedures Committee or the Council.

- (5) After the expiration of such period, within the next seven days, the Investigation Committee shall submit a Report containing the procedure adopted, its findings and other relevant information, in the form of a written document to the Council in a confidential manner. All the necessary documents and correspondence shall be in a separate annexure.
- (6) The Confidential Report shall contain the following in its conclusion.
 - (a) A written charge, if framed against the respondent.
 - (b) Sufficient information and evidence with reasons for not framing a charge against the respondent.
- (7) In the event of the Committee being unable to complete its findings within forty five days, it shall forward to the Council or to the Procedures Committee an Interim Confidential Report on or before the due date. Such report shall contain the proceeding to date and the reasons of non-submission as per the Regulations.
- (8) The Council or Procedures Committee may at its discretion extend the period by a maximum of another fifteen days or take a decision based on the Interim Confidential Report.
- (9) In the absence of response within the stipulated period by the complainant or respondent, the Investigation Committee shall conclude the report within the specified period. However, the Committee may grant additional time if satisfied with reasons submitted by complainant or respondent as may be approved by Council.

9.2 Action by the Council on Receipt of Confidential Report or Interim Confidential Report from Investigation Committee -

- (1) On the receipt of a Confidential Report, the Council shall study the proceedings and convey in writing the decisions arrived at, to the parties concerned in a conclusive manner under Registered Post.
- (2) Based on the Confidential Interim Report the Council shall decide, either to authorize the Procedure Committee to decide and proceed as per the Regulations and to report to the next Council or to take a decision at the next Council Meeting.
- (3) On receipt of Confidential Report from the Investigating Committee and if such Confidential Report warrants action, the Council or the Procedures Committee if it has been authorized, shall refer the matter within seven days to the Disciplinary Committee.

9.3 Procedure for Disciplinary Inquiry Committee -

9.3.1 Procedure from Investigation Committee to Disciplinary Committee

- (1) On the receipt of the Confidential Report or Confidential Interim Report, and if it warrant action, the Council or the Procedures Committee if it has been authorized, shall appoint a Disciplinary Inquiry Committee within seven days from the date of the Council Meeting or Procedures Committee Meeting.
- (2) If the decision has been taken by the Procedures Committee, it should be reported to the Council and the Council reserves the right to either approve, disapprove, or amend any such decision.
- (3) The complaint, submissions made by the parties and the Confidential Report or Confidential Interim Report shall be handed over to the Disciplinary Inquiry Committee within the same period of seven days from the date of the Council Meeting or the Procedures Committee Meeting.

- (4) In the absence of response within the stipulated period by the complainant or respondent the Disciplinary Committee shall conclude the report within the specified period. However, the committee may grant additional time if satisfied with reasons submitted by complainant or respondent as may be approved by Council.

9.3.2 Preparation of the Charges -

- (1) The Disciplinary Committee shall meet within seven days from the date of receipt of the report and examine the charges framed by the Investigation Committee and,
 - (a) May use the same charge or charges made by the Investigation Committee.
 - (b) Amend a charge or charges formulated by the Investigation Committee.
 - (c) Frame new charges or remove any or all charges as may be required.
- (2) Disciplinary Committee shall within the next seven days submit to Council an Interim Report based on the findings.
- (3) At the end of the aforesaid seven days, the Disciplinary Inquiry Committee shall inform the parties with a detailed charge sheet under Registered Post, requesting for any more information to be submitted on the same matter within the next fourteen days or in the case of a Member resident overseas within twenty eight days. However, the Chairman with the written consent by the majority of the Members may grant an extension of time not more than seven days, if there is sufficient reasons that have been forwarded in the form of a written appeal.

9.3.3 Appointments to the Disciplinary Committee other than its Members -

- (1) The Council may engage the services of an Attorney-at-Law, Chartered Architect or an Architect, (hereinafter referred to as "Prosecutor") to assist the Committee by leading evidence and presenting the case against the Member, Chartered Architect, Architect, Architectural Licentiate or Practice whose conduct is the subject matter of the inquiry (hereinafter referred to as the "Respondent").
- (2) The Council may in addition obtain the services or authorize an Attorney at-Law (hereinafter referred to as "Adviser") to advise the Disciplinary Committee, on the legal aspects that may arise in the course of or at the conclusion of the inquiry.
- (3) The Honorary Secretary shall function as the Secretary of every Disciplinary Committee, except in the circumstances where the Honorary Secretary has either direct or indirect Interest over Complainant or the Respondent. In such situation Council shall assign such duty to the Honorary Assistant Secretary or any other Member as may be approved by Council.

9.3.4 Powers of the Disciplinary Committee -

- (1) The Committee shall have the power to restrict the examination and cross-examination of witnesses, by disallowing questions which are not relevant to the subject matter of the inquiry, or which are indecent, scandalous or needlessly offensive in form.
- (2) The Committee shall have power to take evidence on Oath or Affirmation.

- (3) The Committee shall have powers to hold a Disciplinary Inquiry in Camera, unless the Council otherwise determines it not to be held in camera.
- (4) If the Complainant or the respondent does not appear or un-represented at the inquiry, the Committee shall have the power to continue with the inquiry assisted by a prosecutor employed or authorized by the Council.
- (5) Any decision by a Disciplinary Committee shall be determined by a decision of the majority of such Committee.
- (6) Disciplinary Committee may recommend to the Council to reprimand, suspend or dis-enroll any Member, Chartered Architect, Architect, Architectural Licentiate or delist a Practice for a specific period of time as may be decided.

9.3.5 Procedures for the Disciplinary Committee -

- (1) The Complainant and the Respondent shall be entitled to appear before the Disciplinary Committee and its inquiry as follows :
 - (a) In person
 - (b) Represented by a Member, Chartered Architect, an Architect, an Architectural Licentiate
 - (c) An Attorney-at-Law
- (2) The Complainant and the Respondent shall not be compelled to give evidence, but may be required by the Disciplinary Committee to produce documents in their possession or power relevant to the subject matter of the inquiry.
- (3) The Respondent shall be entitled to cross-examine the Complainant or any other witness.
- (4) The Complainant or representative appointed or the Prosecutor, shall be entitled to cross-examine the Respondent and the witness who give evidence on behalf of the Respondent.
- (5) At the conclusion of the evidence, the Complainant or his representative shall be entitled to make submissions in relation to the questions of Law and facts arising at the inquiry.
- (6) At the conclusion of the evidence led by the Complainant or the Prosecutor the Respondent shall be entitled to lead his evidence.
- (7) The Secretary to Disciplinary Committee and shall sign every notice issued by the Committee.
- (8) The Secretary to Disciplinary Committee shall give not less than fourteen days notice in writing by Registered Post of the first date of inquiry to the Respondent, to the Complainant, the Prosecutor, and the Adviser, if any.

9.3.6 Procedure for the Inquiry -

- (1) The total period for the inquiry shall be sixty days, which includes the fourteen days of notification by the Honorary Secretary to the Disciplinary Committee. This period may be extended only by the Council on written request to the Council reasoning out for the extension. Council may allow a maximum of thirty days.
- (2) The Complainant or the representative shall commence the case and thereafter the Prosecutor shall lead evidence. If the Council has appointed or authorized a prosecutor to assist the committee, the Prosecutor shall commence the hearing.

- (3) Where the Respondent or the Complainant fail to appear and is un-represented, the Committee, if satisfied that notice of inquiry has been duly given, may proceed with the inquiry.
- (4) The Committee may, with good cause, postpone or adjourn the inquiry from time to time, but within the specified period. Notice of such postponement or adjournment shall be given by Registered Post.
- (5) If the Disciplinary Committee is of the opinion that the evidence of any person or the production by any person of any document is necessary for the purpose of such inquiry, the Committee shall direct the Disciplinary Committee Secretary by written notice to require the attendance of that person or the production by that person or such document. The time and place as shall be specified in such notice, which shall be delivered by Registered Post to such person.

9.3.7 **Disciplinary Committee Report -**

- (1) If the inquiry could not be finished within the specified period an Interim Report shall be submitted to the Council at the end of the stipulated period.
- (2) After the conclusion of the inquiry, the Committee shall prepare and furnish to the Council a report embodying its findings on the subject matter of the inquiry.
- (3) The Disciplinary Inquiry Committee Report shall have the following:
 - (a) The schedule of dates, places and times appointed for the hearing of the charges by the Disciplinary Committee.
 - (b) A list of witnesses and documents presented to the Disciplinary Committee in support of the charge and evidence in writing.
 - (c) Final recommendation of the Disciplinary Committee.
- (4) A copy of such report shall be furnished under Registered Post to the respondent and to the Complainant, if any.

9.4 **Determination by the Council -**

The Council upon receipt of the Report of the Disciplinary Committee or any other Interim Report shall act as specified below:

- (1) On receipt of an Interim Report by the Disciplinary Committee, the Procedures Committee or Council shall accept such report or direct the Disciplinary Committee to proceed with the charges framed by the Investigation Committee.
- (2) The Interim Report of the Disciplinary Committee shall be in the Agenda of the immediate Council meeting and irrespective of whether the Procedures Committee has taken a decision or not the Council reserves the right to accept the Interim Report or direct the Disciplinary Committee to proceed with the charges framed by the Investigation committee.
- (3) If the Committee has found the Respondent guilty of all or any of the charges made against him / Practice, shall make order as provided for in sub-section (3) of Section 8 of Law No 1 of 1976 and as amended.
- (4) If the Committee has found the Respondent not guilty of all charges made against him/Practice shall an order be made that the Respondent is exonerated of any misconduct or any other breach.