



香港測量師學會  
HONG KONG INSTITUTE OF SURVEYORS

# **RULES OF CONDUCT**

**GUIDANCE NOTES**  
**IN CONNECTION WITH PART VI OF THE BYE-LAWS**  
**PROFESSIONAL CONDUCT**

These Guidance Notes have been approved by the General Council on 8 November 2001. The General Council has decided that the same disciplinary procedures shall apply to all Members and Students.

14 March 1990 edition, amended on 10 January 1995 and 8 November 2001.

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# **Rules of Conduct**

## 1. **STANDARD OF CONDUCT**

The general principle is that:-

No Member shall conduct himself in a manner unbecoming a Member of the Institute.

The following rules of conduct set out the standard for the conduct of all Members. When the masculine gender is used for the sake of brevity and convenience, it is intended to include the feminine gender.

### 1.1 **Responsibility to the Profession/Institute**

A Member of the Institute shall order his conduct so as to uphold the dignity and reputation of the Institute and the surveying profession.

A Member shall, amongst other things:-

- 1.1.1 not advertise his service in a manner derogatory to the dignity or reputation of the Institute or the surveying profession;
- 1.1.2 not solicit instructions for work in a manner that may bring the Institute or the surveying profession into disrepute;
- 1.1.3 not accept any instruction which he is not qualified or competent to discharge;
- 1.1.4 not give opinions in his professional capacity that are not, to the best of his ability, objective, reliable and honest;
- 1.1.5 not be connected with any occupation or business in any way which would, in the opinion of the General Council or any of the disciplinary bodies named in Part 3 of these Rules, prejudice the reputation of the Institute or the surveying profession;

1.1.6 not carry on practice as a surveyor under any such name, style or title as to prejudice the reputation of the Institute or the surveying profession.

1.2 **Responsibility to other Members**

A Member of the Institute shall compete fairly with other Members for instruction or work.

A Member shall, amongst other things:-

1.2.1 not offer nor give a prospective client or anyone any gift or favour, of value or otherwise, designed to secure instructions for work;

1.2.2 not exert, directly or indirectly, undue pressure or influence on any person for the purpose of securing instructions for work;

1.2.3 not accept instructions from any person if, he has reason to believe that, a third party in expectation of receiving a reward, of value or otherwise, has exerted pressure or influence on that person to give the Member instructions;

1.2.4 not act nor offer to act in any capacity in relationship to any matter which is the subject of judicial or quasi-judicial proceedings either on the basis that no charge will be made unless the proceedings will be successful or on the basis that the amount of the charge will be related to the degree of success in the proceedings;

1.2.5 not revise his quotation for services to take into account the fee quoted by another Member for the same services if he has already quoted a fee for such services;

1.2.6 not quote a fee for professional services which is based on but less than the fee quoted or charged by another Member for the same services;

1.2.7 not maliciously or falsely injure nor attempt to injure the

professional reputation or practice of other Members.

### 1.3 **Responsibility to Clients**

A Member of the Institute shall discharge his duties to his client with integrity and in accordance with the highest standard of business ethics.

A Member shall, amongst other things:-

- 1.3.1 when acting for a client or when in contemplation of acting for a prospective client whose interests conflict or may conflict with his own or those of any of his associates, disclose the relevant facts forthwith to the client or prospective client and to the associate and where such disclosure is oral, confirm in writing such disclosure at the earliest opportunity and inform the client or prospective client that he will be unable to act or continue to act unless the client or prospective client requests him in writing to do so;
- 1.3.2 ensure that neither he personally nor any firm or company carrying on practice as surveyors of which he is a partner or director acts for two or more parties with conflicting interests without disclosing the relevant facts to each of those parties forthwith and confirming such disclosure in writing at the earliest opportunity and inform each of those parties that he personally, his firm or company will be unable to act or continue to act unless each of the parties requests him and his firm/company in writing to do so;
- 1.3.3 not disclose any confidential information in relation to a client to anyone without the written consent of the client concerned;
- 1.3.4 not receive any remuneration other than for his professional services. He shall not accept any payment, entertainment, gift or favour of more than nominal value, from any third party such as a supplier or a contractor who is connected with his professional services provided to clients;

- 1.3.5 keep in one or more bank accounts separate from his own, his firm's or his company's bank account (as the case may be) any client's money held by or entrusted to him, his firm or his company in any capacity other than that of a beneficial owner;
- 1.3.6 account at the due time for all moneys held, paid or received on behalf of or from any person (whether a client or not) entitled to such account and whether or not after the taking of such account any payment is due to such person.

#### 1.4 **Vicarious Liability**

A Member who:-

- 1.4.1 is or holds himself out or allows himself to be held out to be a partner in a firm or a director of a company or a sole proprietor; or
- 1.4.2 allows his name and/or designatory letters or designation to appear on the note paper or in the advertisements of any firm or company in which no other partner or director is a Member; or
- 1.4.3 is a partner in a firm or a director of a company which is so connected with another firm or company in which no partner or director is a Member and that in the opinion of the General Council or any of the disciplinary bodies named in Part 3 of these Rules, people dealing with that other firm or company believe or may be induced to believe that the two firms or companies are connected

shall be held responsible for any contravention of the Bye-Laws or these Rules of Conduct committed by any partner or any member of the staff of such firm/company or other firm/company provided that if such Member shall show that without any default on his part he had no reason to be aware of and was not aware of any such contravention and that he had prior to such contravention taken all such steps as may be reasonable to ensure that such contravention would not be committed, he will not be

held responsible for such contravention.

## 2. **DISCIPLINARY POWERS**

2.1 In accordance with the provisions of Part VI of the Bye-Laws, if a Member has been found by the Disciplinary Board under Rule 4 to have contravened the Standard of Conduct or any provisions of the Bye-Laws, the General Council shall have power to take any one or more of the following courses of action:-

2.1.1 to reprimand or severely reprimand the Member;

2.1.2 to require the Member to give a written undertaking to refrain from continuing or repeating the conduct which is found to have constituted the contravention;

2.1.3 to suspend the Member from Membership of the Institute for such periods as the General Council may determine;

2.1.4 to expel the Member from the Institute.

2.2 If, in respect of a Member, there is produced to the General Council:-

2.2.1 evidence of conviction by a Court of competent jurisdiction for any criminal offence involving embezzlement, theft, corruption, fraud or dishonesty of any kind or any other criminal offence carrying on first conviction a maximum sentence of not less than twelve months imprisonment (whether the sentence is suspended or not); or

2.2.2 a legal notice that he has been adjudicated bankrupt or a certified copy of a deed of arrangement he has entered into with or for the benefit of his creditors; and

2.2.3 a copy of a letter sent by the Institute to the Member

2.2.3.1 informing him of the powers of the General Council under the Bye-Laws or these Rules of Conduct;



2.2.3.2 giving him not less than 21 days notice of the date of the meeting of the General Council at which the matter is to be considered; and

2.2.3.3 inviting him to make such submissions in writing as he may think fit;

the General Council after considering any submission as aforesaid may either:

- i) refer the matter to the Committee of Investigation hereinafter mentioned for enquiry and action. (In such event, the General Council may, if they think fit, temporarily suspend the Member from membership of the Institute pending such enquiry); or
- ii) without further enquiry forthwith expel the Member from the Institute.

2.3 All decisions of the General Council under Rule 2 shall take immediate effect and shall be duly recorded; and the General Council may cause to be published in the Journal and in such newspapers or other publications as the General Council may think fit notice of reprimand or severe reprimand; suspension or expulsion of a Member together with such particulars, as the General Council shall think desirable, of the misconduct, breach of Bye-Laws, conviction or other matter for which the penalty in question was imposed.

2.4 If a Member is expelled, his name shall be removed from the Register and he shall thereupon cease for all purposes to be a Member of the Institute. That Member shall immediately return his diplomas of Membership to the Institute and he shall not be entitled to use any designation or description which implies membership or former membership of the Institute.

2.5 If a Member is suspended, he shall not be entitled during the period of his suspension to exercise any of the rights or privileges of membership of the Institute. He shall however remain in all

other respects subject to the provisions of these Bye-Laws and to the exercise of the Institute's disciplinary powers in respect of any contravention of those provisions committed by him including that committed during the period of his suspension.

- 2.6 If a Member has been notified that a complaint or allegation has been made against him or that a conviction, bankruptcy or other matter mentioned in these Rules has been notified to the Institute he shall not be entitled to resign from membership of the Institute, and any such proceedings may be continued notwithstanding his attempted resignation.

### 3. **DISCIPLINARY BODIES**

The disciplinary bodies of the Institute shall consist of a Preliminary Review Committee, a Committee of Investigation and a Disciplinary Board.

#### 3.1 **The Preliminary Review Committee**

- 3.1.1 The Preliminary Review Committee shall comprise either one of the two Vice-Presidents, the Chairman of Membership and the Divisional Chairman who is of the same discipline as the Member against whom an investigation is to be made.

#### 3.2 **The Committee of Investigation**

- 3.2.1 The Committee of Investigation shall be selected by the President and shall consist of three Members who shall be Fellows. The President shall appoint one of the Members of the Committee to be its Chairman. One of the Members of the Committee shall be of the same discipline as the Member against whom an investigation is to be made. The Chairman shall appoint a Member of the Institute to be its Secretary.

3.2.2 If, in the opinion of the Committee of Investigation, the investigation of a particular complaint or allegation may require specialist knowledge or expertise not available to the Committee, it may at any stage of the investigation, appoint a Member who in its opinion has such knowledge or expertise to serve ad hoc as a full additional Member of the Committee for the purpose of considering the particular complaint or allegation.

### 3.3 **The Disciplinary Board**

3.3.1 The Disciplinary Board shall be drawn from a Disciplinary Panel.

3.3.2 Members of the Disciplinary Panel shall be appointed by the General Council for a two year period. The Disciplinary Panel shall consist of a maximum of thirty Members who shall be Fellows and include a maximum of six Members of each of the Divisions of the Institute, save in the case of the General Practice and Quantity Surveying Divisions which shall have a maximum of nine Members.

3.3.3 The Disciplinary Board shall be selected by the President and shall consist of either three or five Members of the Disciplinary Panel, as the President may decide. One of the Members of the Disciplinary Board shall be of the same discipline as the Member against whom the hearing is to be heard. Any Member appointed on to the Committee of Investigation shall not be appointed on to the Disciplinary Board hearing the same matter. The President shall appoint one of the Members of the Board to be its Chairman. The Chairman shall appoint a Member of the Institute to be the Secretary. The President shall also advise two other members of the Disciplinary Panel to hold themselves in readiness to replace any of those selected who may in the event be unable to attend the hearing. The President, may at his discretion, appoint an assessor to sit with the Disciplinary Board if, for instance, the hearing will involve complicated point of law arguments. The assessor shall

be a solicitor or a barrister of not less than ten years' standing.

#### 4. **DISCIPLINARY PROCEDURE**

##### 4.1 **The Preliminary Review Committee**

4.1.1 When a complaint or allegation is made against a Member of a breach of the Constitution, Bye-Laws, or these Rules of Conduct, or if it has come to the attention of the Institute that a Member may be in breach of the Constitution, Bye-Laws or these Rules of Conduct, the President shall refer to the Preliminary Review Committee such complaint/allegation or incident (the "Case") for the exercise by the Committee of its powers under Rule 4.1.2.

4.1.2 On referral by the President, the Preliminary Review Committee shall decide whether a Committee of Investigation shall be appointed to deal with the Case. The Preliminary Review Committee shall make its decision by a majority vote of the Committee.

##### 4.2 **The Committee of Investigation**

4.2.1 If the Preliminary Review Committee has decided that the Case shall be dealt with by the Committee of Investigation, the Honorary Secretary of the Institute shall provide the Committee of Investigation that has been appointed by the President with all relevant documents in connection with the Case.

4.2.2 The Honorary Secretary of the Institute shall inform the Member of the Case made against him and shall also inform him that a Committee of Investigation has been appointed.

4.2.3 The Committee shall consider the documents provided by the Honorary Secretary of the Institute and may either reach a conclusion based on the documents only or call for further information or evidence from the complainant, the Member under investigation or from any other person.

- 4.2.4 The Committee shall keep minutes of its investigations and decisions. The circulation of those minutes shall be confined to members of the Committee during the period of investigation. After completion of the investigation, the minutes shall be made available to the Office Bearers of the General Council.
- 4.2.5 The Committee of Investigation shall make its decision by a majority vote of the Committee.
- 4.2.6 If the Committee recommends that the subject matter of the complaint or allegation should not become a formal charge, it shall so inform the Office Bearers of the General Council. The Office Bearers shall inform the Member in writing of the Committee's decision.
- 4.2.7 If the Committee recommends that the subject matter of the complaint or allegation should become a formal charge, it shall so inform the Office Bearers of the General Council. The Office Bearers after due consideration of the Committee's recommendation shall inform the Member of their decision by letter to the Member. In the event of the Office Bearers accepting the Committee's recommendation, the President shall appoint a Disciplinary Board and the Honorary Secretary of the Institute shall be given such assistance as he may need for the purpose of instructing the Institute's solicitors and (if they so advise) Counsel to draw up the formal charge and generally prepare the case for presentation to the Disciplinary Board.

#### 4.3 **The Disciplinary Board**

- 4.3.1 When the formal charge has been drawn up, the Honorary Secretary of the Institute shall, after consultation with the Chairman of the Disciplinary Board, fix a date, time and place for the hearing (sufficiently far ahead for the Member to be given not less than 28 days notice thereof) and shall:-

4.3.1.1 by registered post addressed to the Member's last known address:

- (i) send him a copy of the formal charge;
- (ii) ask him to submit, within 14 days after the formal charge has been posted, a written answer by way of defence to the formal charge;
- (iii) inform him of the date, time and place of the hearing and of his rights under Part VI of the Bye-Laws;
- (iv) call upon him to state within the next 14 days whether he intends to appear at the hearing and if so whether only in person or by his solicitor and/or Counsel;
- (v) warn him that if he does not elect to appear at the hearing the Board may proceed in his absence;
- (vi) require him to serve on the Honorary Secretary of the Institute not less than 14 days before the date of the hearing a list of such documents upon which he intends to rely at the hearing;
- (vii) inform him that the Institute is also required to serve upon the Member not less than 14 days before the hearing a list of the documents upon which the Institute intends to rely at the hearing;
- (viii) inform him that either he or the Institute (as the case may be) may require copies of any documents included in a list served by either of them upon payment of any proper charge therefor; and

- (ix) send him a copy of the procedure note for the conduct of the hearing approved by the General Council;
- 4.3.1.2 send to the Institute's solicitor a copy of the letter and accompanying documentation sent in pursuance of the foregoing requirements; and
- 4.3.1.3 make arrangements for the hearing before the Disciplinary Board.
- 4.3.2 If the Member charged fails to attend any hearing either in person or by his solicitor or Counsel before the Disciplinary Board, the Board shall satisfy itself that the Member was duly given notice of the hearing and that the Member has not shown good cause for his failure to attend and, if so satisfied, may proceed in his absence.
- 4.3.3 The Disciplinary Board may at its discretion adjourn a hearing from time to time.
- 4.3.4 The Disciplinary Board shall make its decision by a majority vote of the Board and shall conduct the hearing in accordance with the procedure approved by the General Council and shall only conclude that a complaint or allegation contained in the formal charge has been proved if the Board is satisfied that such complaint or allegation has been proved beyond reasonable doubt.
- 4.3.5 If the Disciplinary Board has concluded that a complaint or allegation contained in the formal charge has been proved or established, it may order the Member to pay the Institute all or part of the costs and expenses of the Institute and the Disciplinary Board arising from the case. The Disciplinary Board may at its discretion assess and decide the amount of the costs and expense payable by the Member.
- 4.3.6 The Disciplinary Board shall inform the General Council and the Member in writing of its decision as to whether

any complaint or allegation contained in the formal charge is proved by letter to the General Council and the Member.

- 4.3.7 The Disciplinary Board's decision shall be final and shall be noted in the Member's Personal Record file and published if the General Council so directs.
- 4.3.8 The General Council may exercise any of its powers under Rule 2.1 based on the decision of the Disciplinary Board.



