



## REGULATION 03-

### DISCIPLINARY PROCEDURES

#### *In the event of a dispute or complaint dispute. What can you expect from the Institute?*

The Institute Rules cover the following :

1.3(d) *To promote and encourage proper conduct among Building Surveyors to suppress dishonorable and/or objectionable practices.*

1.6(b) *If any member does not abide by the Rules of the Institute, or does not comply with any resolution, agreement or contract that may be passed, adopted or entered into by the Institute, the Executive by resolution may request in writing such member to resign, and in the event of such member refusing or neglecting to resign, within ten (10) days of the delivery of such notice, such member may be expelled by a majority vote of the Executive present and voting.*

*Such member shall have a right to appeal against such expulsion to a Special General Meeting of members called for such purpose, a bare majority of the members then present and voting will be binding on such member and on the Institute.*

*Notice of any appeal shall be given by the member to the Secretary within fourteen (14) days of the posting to the address of the member held by the Institute, a copy of the resolution of the Executive.*

1.17 *In case any matter at any time arises not provided for in the rules or any doubt arises as to the interpretation of these rules, that same shall be determined by the Executive, whose decision shall be final.*

Within the Institute rules, we have published our 'Code of Ethics' and as well as outlining the issues of competence, conflict and conduct, the Executive has the power and sole discretion to order a fine or expulsion of a member.

## ***If a client has an issue with a member..***

The Institute is in a position to receive a complaint from affected contract-related parties and deal with it through its elected Executive, when these matters relate to issues of competence, conflict or professional conduct.

The Institute will not consider any complaint relating to the actions of a member if there has been a claim lodged and pending before the Disputes Tribunal, District Court or High Court, or before any other Arbitral Tribunal, relating to the resolution of a dispute arising out of a contractual relationship between the member and the complainant party.

The Executive has the following procedures in place.

- a) Complaint received, if not in writing a request for the complaint to be put in writing and with full explanatory detail. Receipt of the complaint is acknowledged to the complainant.
- b) The written complaint is received and a copy forwarded immediately to the member concerned with a request for a written reply within ten (10) working days or such other reasonable time as agreed by the Institute.
- c) The three members of the Executive on the Disciplinary Committee are advised of the complaint so as to hear and investigate the matter.
- d) Following the member's written response a copy is forwarded to the complainant with a request for a final comment within ten (10) working days.
- e) Following the complainant's written response a copy is forwarded to the member with a request for a final comment within ten (10) working days.
- f) The Executive consider the submissions and responses from each party and advise their findings to both the complainant and the member.
- g) If action against the member is ordered, a right of appeal (*see 1.6(b)*) follows with a 14 day appeal period, and then to a Special General meeting.

These procedures are in place to deal with substantive issues of conduct and performance, and the Institute will not become involved in matters of commercial management, accounting claims, charges for services and any individual member's office procedure.

The Institute will not deal with claims made against members by parties who do not have a direct contractual relationship with the member **unless a complaint is made regarding the member's ethical conduct as identified in Regulation 02, Section 4.**

## ***If a member has an issue with a client***

Our Institute is not in a position to represent its members in matters of general dispute, it shall only deal with the issues of conduct of members that may be placed before it.

A member can request a finding of the Executive to a substantive claim made against that member, providing the issues are forwarded in writing and a full and detailed explanation is attached.

The procedure c) and f) would follow as outlined above.

The Executive also has in place, through the President, the ability for any member to seek an opinion or advice on how to proceed further with any concern a member may have.

The member is invited to contact the President, who will in turn seek such Executive assistance as he/she may deem necessary and give an opinion in assistance.

**The response shall be an opinion only and not an Executive resolution.**

Again, these matters need to be substantive, and not minor issues or unpaid account type disputes.

The role of the Executive in these matters is to uphold the rules and standards of the Institute and to give every assistance to our members in the promotion of the profession of Building Surveyors.

## ***If a complaint has been made regarding the serious misconduct of a member***

The Institute is in a position to receive a complaint from individual or collective parties whether contract related or otherwise and deal with it through its elected Executive, when these matters relate to professional conduct as identified in Regulation 02, Section 4.

When considering the complaint, the Executive will follow the procedure outlined in a) to g) above.

The Executive will not consider any claim made under this heading unless it regards the complaint as being of a serious nature and of a type that clearly relates to the ethical conduct of the member when measured against the standards of behaviour listed in a) to g) of paragraph 4 of Regulation 02.