

**Complaint Handling Rules and Procedures
in respect of Expert Determination on
Building related Technical Issues or Disputes**

A. Purpose

1. The BAEDC Complaints' Handling Committee ("**the Committee**") is set up to investigate and deal with any complaints arising out of the expert determination services provided by an expert nominated by the BAEDC.
2. All complaints in relation to the expert determination services provided by an expert nominated by the BAEDC and the nomination of expert process thereof shall be regulated and covered by this Complaint Handling Rules and Procedures (the "**Complaint Handling Rules**").

B. Definition and Interpretation

3. In this Complaint Handling Rules, the following expressions, except where the context otherwise requires, have the following meanings:-

"BAEDC" means the Building Affairs Expert Determination Centre set up by the HKIS;

"Complaint" means a complaint made against an Expert with respect to the latter's (i) alleged conduct or behaviour in connection with an expert determination; and / or (ii) other conduct giving rise to conflict of interest situations;

"Complainant" means a person making a Complaint;

"Expert" means the BAEDC nominated expert who is then appointed by the Parties as expert to determine their building related issues or disputes herein;

"HKIS" means The Hong Kong Institute of Surveyors;

"HKIS Member" means a member of the HKIS holding a Professional Grade of Membership (FHKIS or MHKIS)

"Parties" means the Parties to a building issue or dispute in respect of which an application

for the nomination of expert is made to the BAEDC, and each a “**Party**”

3.2 Unless the context otherwise specifies:

- (a) References to “**conflict of interest**” include the situations:-
 - (i) when a HKIS member acting for any persons or when in contemplation of acting for a prospective person whose interests conflict or may conflict with the Parties; and
 - (ii) when a HKIS member personally or any firm or company carrying on practice as surveyors of which he is a partner or director acts for any of the Parties; and
 - (iii) any other situations regarded as conflict of interest situations under the Rules of Conduct and/ or other documents or notices issued by the HKIS from time to time.

C. Scope

4. This Complaint Handling Rules apply to Complaints relating to the Expert's personal and/ or professional conduct in his course of acting as an expert for the determination of building related technical issues or dispute under the expert determination.
5. Any Complaints relating to the decisions made by the Expert in the course of expert determination will generally not be entertained, including but not limited to Complaints in relation to the decision making process, the reasoning of the decision, the validity of the decision, the weight attached on the materials submitted, calculation of the expert's fees and expenses and/ or other preliminary or ancillary matters.
6. The Committee has no obligation to enquire into or interfere with any other on-going dispute resolution process including but not limited to arbitration and mediation.
7. This Complaint Handling Rules must not be used to require an Expert to revisit, reconsider, change or withdraw any of his decision in the expert determination.
8. This Complaint Handling Rules do not apply to any demand/ request for an Expert to pay compensation based on any misconduct stated in paragraph 4 of this Complaint Handling Rules or any other cause of action.
9. The Committee may at its sole discretion refer any Complaint, either in part or in full, to the HKIS or other disciplinary bodies whatsoever, which regulate and/or deal with the experts' professional conduct.

D. The Complaint Procedure

10. All Complaints hereunder shall be made in writing enclosed with all necessary evidence and/ or materials.
11. If the Committee considers the Complaint falling within the scope set out in section C above, the following procedure will be adopted (please also refer to Schedule 1 for a flowchart of the Complaint Procedure):-
 - (a) Within seven (7) days after receipt of any Complaint against an Expert, the Committee will, if necessary, contact the Complainant to invite him to submit a detailed account of the Complaint in writing together with all relevant supporting evidence.
 - (b) Within fourteen (14) days thereafter, the Committee will send an acknowledgement to the Complainant together with a copy of this Complaint Handling Rules. At the same time, the Committee will forward the detailed Complaint to the Expert a copy of the detailed account of the Complaint and all supporting evidence.

- (c) The Expert will be invited to reply to the Complaint in writing and provide the Committee with his explanation and/ or opinion whatsoever within twenty eight (28) (days) upon the receipt of a copy of the Complaint and/ or such later dates as the Committee may consider fit in its sole discretion.
 - (d) The Committee shall be entitled, but shall not be obliged, to inquire into, investigate and/ or seek clarifications, opinions and/or communications from any persons in respect of the Complaint at any stage after receiving a Complaint.
 - (e) The Committee will consider any or all of the submissions by the Complaint, the reply by the Expert and the further communications and/or investigations mentioned in sub-paragraph (d) above, and inform both the Complainant and the Expert of its decision within thirty (30) days from receiving the response from the expert in sub-paragraph (c) above or the further communications and/or investigations in sub-paragraph (d) above.
12. On the other hand, if the Committee considers that the Complaint does not fall within the scope of this Complaint Handling Rules, the Committee shall inform the Complainant and the Expert of its decision within thirty (30) days from receiving the Complaint from the Complainant.
13. The decision of the Committee is final and no appeal will be entertained.

E. Potential Actions

14. After completion of its enquiry and investigation and without prejudice to and/or in addition to any actions that may be taken by the Disciplinary Board under the Rules of Conduct and Constitution and Bye-Laws of the HKIS (if applicable), the Committee shall also have power to take the following actions:-
- (a) issuing advice, guidance and/or reminders to the Expert to avoid similar incidents;
 - (b) striking off the List of Expert the Expert's name;
 - (c) suspending that Expert from acting as an expert to expert determination proceedings in respect of all or any particular areas and for such period as the Committee shall think fit;
 - (d) permitting the Expert to continue to act as an expert, but subject to conditions (including but not limited to satisfactory attendance of relevant training and courses);
 - (e) reprimand or severely reprimand the Expert; and
 - (f) require the Expert to give a written undertaking to refrain from continuing or repeating the conduct which is found to have constituted the incident.

F. Time Limit

15. The Complaint must be made within a reasonable time of the incident giving rise to the Complaint and, in any event, no later than 6 months after the acts or conduct complained of, or 6 months of the handing down of the Expert's Decision, whichever is the later.
16. The Committee may extend the time limit at its sole discretion, upon written requests by the Complainant together with valid reasons justifying such extension to the satisfaction of the Committee.
17. Any Complaints made outside the time limits set out in this section shall generally not be entertained.

G. Withdrawal of Complaint

18. If a Complaint is withdrawn, the Committee will inform the expert in writing.

H. Contact

19. Should you have any enquiry regarding this Complaint Handling Rules, please contact the Committee through the following:-

Address: BAEDC
The Hong Kong Institute of Surveyors,
Room 1205,12/F, Wing On Centre,
111 Connaught Road Central,
Sheung Wan, Hong Kong.

E-mail: baedcinfo@hkis.org.hk

Schedule 1 - Complaint Procedure Flow Chart

