

## The Hong Kong Institution of Engineers

香港工程師學會

### Disciplinary Regulations for Adjudicators

審裁員紀律規例

Handled by the Construction Dispute Resolution Committee (CDRC)

由建造事務爭議解決委員會（CDRC）處理

The following Disciplinary Regulations for Adjudicators are supplementary to the existing HKIE Disciplinary Regulations (April 2013) to specifically address any complaints against adjudicators arising out of or in relation to adjudication proceedings, with the Construction Dispute Resolution Committee (CDRC) taking the role of handling such complaints.

下列審裁員紀律規例乃補充現有香港工程師學會紀律規例（2013年4月版），專門處理因裁決程序而起或與之相關的對審裁員的任何投訴，由建造事務爭議解決委員會（CDRC）負責處理此類投訴。

If the complaint encompasses not only adjudication misconduct by the adjudicator but also misconduct by the member as a member of the HKIE, the complainant is permitted to file a further separate complaint with the Secretary following the completion of the investigation by the CDRC.

若投訴不僅涉及審裁員的裁決不當行為，亦涉及該會員作為香港工程師學會會員的不當行為，投訴人可在CDRC完成調查後，向秘書提交另一獨立的投訴。

## 1. Introduction 引言

### 1.1 Authority 主管機構

The HKIE Construction Dispute Resolution Committee (CDRC) is responsible for “*all matters relating to adjudication, arbitration, mediation, expert witness as well as the development of alternative dispute resolution, and in particular relating to the engineering profession*” of HKIE. This includes the HKIE’s administrative functions in implementing the Security of Payment Ordinance (SOPO) as a registered Adjudicator Nominating Body (ANB).

香港工程師學會建造事務爭議解決委員會（CDRC）負責“所有與裁決、仲裁、調解、專家證人以及替代爭議解決方法的發展相關的事宜，特別是與工程專業相關的事宜”。這包括香港工程師學會作為註冊審裁員提名機構（ANB）實施《建造業付款保障條例》（SOPO）的行政職能。

### 1.2 Definitions 定義

In these Regulations, except where the context otherwise requires, the following words shall have the meanings respectively attributed to them below:

在本規例中，除文意另有所指外，下列詞語具有以下各自賦予的涵義：

- **"Adjudicator"**: A member appointed by HKIE to resolve disputes under the Security of Payment Ordinance. “審裁員”：由香港工程師學會委任以根據《建造業付款保障條例》解決爭議的會員。
- **"CDRC"**: The Construction Dispute Resolution Committee of HKIE, responsible for handling complaints against adjudicators. “CDRC”：香港工

程師學會建造事務爭議解決委員會，負責處理對審裁員的投訴。

- **"Duty Counsel"**: A legal counsel appointed by the HKIE to assist in handling the complaint. “當值法律顧問”：由香港工程師學會委任以協助處理投訴的法律顧問。
- **"Panel"**: A group of three members appointed by the CDRC to investigate and adjudicate complaints against adjudicators. “調查小組”：由CDRC委任的三名成員組成的小組，用以調查及裁定對審裁員的投訴。

## 2. Initial Investigation 初步調查

### 2.1 Complaint Submission 投訴陳詞

- Complaints against Adjudicators must be submitted in writing, signed by the complainant, and accompanied by payment of a prescribed fee. 對審裁員的投訴必須以書面形式提交，由投訴人簽署，並附上規定的費用。
- Only the party involved in an adjudication, for which The Hong Kong Institution of Engineers (HKIE) has appointed the Adjudicator, is permitted to file a complaint. 僅限參與香港工程師學會委任審裁員的裁決程序的一方，方可提交投訴。
- The prescribed fee for filing complaint is set at the same level as the appointment application fee scale to deter frivolous complaints. 提交投訴的規定費用設定為與委任申請費用相同，以阻嚇瑣屑無聊的投訴。
- The complaint must include: 投訴必須包括：
  - The HKIE adjudication case number. 香港工程師學會裁決個案編號。
  - Proof of payment having been made to HKIE. 已向香港工程師學會付款的證明。
  - The authority, identity and contact details of the complainant. 投訴人的權限、身份及聯絡資料。
    - If the party is a company, it must submit a board resolution authorising the individual to file the complaint on its behalf, along with the most recent specified forms filed with the Company Registry that detail the directors of the company. In cases where the party is not a company, all relevant documents proving the individual's authority to represent the party must be provided. 若當事人為公司，則必須提交董事會決議，授權該個別人士代表公司提交投訴，並附上最近向公司註冊處提交的詳列公司董事的指定表格。若當事人並非公司，則必須提供所有證明該個別人士有權代表當事人的相關文件。
  - A detailed description of the alleged improper conduct. 對所指稱不當行為的詳細描述。
  - Supporting evidence of the alleged improper conduct. 所指稱不當行為的佐證證據。

### 2.2 Prima Facie Document Check 構成表面證據之文件審閱

- Upon receipt of a complaint and the prescribed fee, the Chairman of Adjudicator Appointment Subcommittee or a Duty Counsel appointed by the HKIE to

perform a prima facie document check. 在收到投訴及規定費用後，由審裁員委任小組委員會主席或香港工程師學會委任的當值法律顧問進行構成表面證據之文件審閱。

- The Subcommittee Chairman or the Duty Counsel shall assess whether the complaint: 小組委員會主席或當值法律顧問須評估該投訴是否：
  - Falls within the jurisdiction of the CDRC. 屬CDRC的管轄範圍內。
  - Contains sufficient evidence or grounds to warrant further investigation. 包含足夠證據或理據以證明需進一步調查。
- If the Subcommittee Chairman or Duty Counsel determines that the complaint lacks merit or is frivolous or does not fall within the jurisdiction of the HKIE, it shall be dismissed, and the complainant shall be notified in writing with reasons for the dismissal. 若小組委員會主席或當值法律顧問判定投訴缺乏理據、瑣屑無聊或不屬香港工程師學會管轄範圍，則須駁回投訴，並以書面通知投訴人駁回理由。
- The Subcommittee Chairman or Duty Counsel may also dismiss the complaint if it is considered that the alleged improper conduct is of such a trivial nature that it calls for no action. In such cases, the complainant shall also be notified in writing with reasons for the dismissal. 小組委員會主席或當值法律顧問亦可駁回投訴，若認為所指稱不當行為屬瑣碎性質而無需採取行動。在此情況下，亦須以書面通知投訴人駁回理由。

### **2.3 Establishment of a Three-Member Panel 成立三人調查小組**

- If the Subcommittee Chairman or Duty Counsel determines that the complaint warrants further investigation, the CDRC shall establish a three-member Panel to handle the complaint. 若小組委員會主席或當值法律顧問判定投訴值得進一步調查，則CDRC須成立三人調查小組處理該投訴。
- The Panel shall consist of individuals with relevant expertise and no conflict of interest in the matter. 調查小組須由具相關專長且無利益衝突的個別人士組成。

## **3. Investigation Process 調查程序**

### **3.1 Notification to Adjudicator 通知審裁員**

- The Panel shall send written notice to the Adjudicator, detailing the particulars of the complaint and inviting the Adjudicator to submit written response within a specified period. 調查小組須向審裁員發出書面通知，詳述投訴的具體事項，並邀請審裁員在指定期限內提交書面回應。
- The Adjudicator shall be informed that failure to submit written response may result in the complaint being referred for an oral hearing. 審裁員須獲告知，若未能提交書面回應，則投訴可能轉介口頭聆訊。

### 3.2 Investigation 調查

- The Panel shall conduct a thorough investigation, which may include: 調查小組須進行徹底調查，其中可能包括：
  - Reviewing all submitted documents and evidence. 審閱所有提交的文件及證據。
  - Initial Inquiry: An inquiry will be made to the Adjudicator, allowing 28 days for a written response. This response will be taken into consideration during the investigation. 初步查詢：向審裁員作出查詢，容許28天提交書面回應。此回應將在調查期間考慮在內。
  - Follow-Up Inquiries: If necessary, further inquiries may be initiated in writing, granting the Adjudicator an additional 21 days to serve written response. This process may be repeated as needed. 後續查詢：若有需要，可發起進一步書面查詢，授予審裁員額外21天提交書面回應。此程序可視需要重複。
  - Interviewing the complainant, the Adjudicator, and any relevant witnesses. 會見投訴人、審裁員及任何相關證人。
  - Examining the Adjudicator's conduct in the case in question. 審查審裁員在相關個案中的行為。

### 3.3 Decision 決定

- Based on the investigation findings, the Panel shall determine whether the complaint is substantiated. 根據調查結果，調查小組須判定投訴是否成立。
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- Possible outcomes include: 可能的結果包括：
  - No action, if the complaint is unsubstantiated or the substantiated improper conduct is of such a trivial nature that it calls for no action. 若投訴不成立或成立的不當行為屬瑣碎性質而無需採取行動，則不採取行動。
  - Issuing a warning or reprimand to the Adjudicator. 向審裁員發出警告或譴責。
  - Recommending additional training or mentoring for the Adjudicator. 建議審裁員接受額外培訓或指導。
  - Suspending the eligibility of the Adjudicator being appointed as an Adjudicator for a specified period of time. 在指定時間內暫停審裁員獲委任為審裁員的資格。
  - Revoking the Adjudicator's name from the HKIE Panel of Adjudicators in severe cases. 在嚴重情況下，從香港工程師學會審裁員名冊中撤銷審裁員的姓名。
  - Requesting further training or assessment before the Adjudicator can be re-listed on HKIE Panel of Adjudicators. 要求審裁員在重新列入香港工程師學會審裁員名冊前接受進一步培訓或評估。
  - Publishing the decision made against the Adjudicator with relevant

committees, listed Adjudicators and/or other members of HKIE, on the condition that the confidentiality of any adjudication cases is appropriately preserved. 在適當保存任何裁決個案機密性的前提下，向相關委員會、列入名冊的審裁員及/或其他香港工程師學會會員公布對審裁員作出的決定。

- In any case, the complainant shall be notified in writing of the decision. 在上述任何情況下，須以書面通知投訴人該決定。

## **4. Hearing Process 聆訊程序**

### **4.1 Notification of Hearing 聆訊通知**

- If the Panel determines that a hearing is necessary, the CDRC shall notify the Adjudicator and the complainant of the hearing date, time, and location at least 28 days in advance. 若調查小組判定需舉行聆訊，則CDRC須至少提前28天通知審裁員及投訴人聆訊日期、時間及地點。
- The Adjudicator and complainant shall be informed of their rights to: 審裁員及投訴人須獲告知其權利，包括：
  - Attend the hearing and make representations. 出席聆訊並作出申述。
  - Be represented by Hong Kong qualified legal counsel or another member of HKIE of their choice, but a 2-week advanced notice should be given to the Panel setting out the details of all representatives who are going to attend the interview. 由香港合資格法律顧問或其選擇的另一香港工程師學會會員代表，但須提前2週向調查小組通知，詳述所有將出席會見的代表資料。
  - Present evidence and call witnesses. 呈交證據及傳召證人。

### **4.2 Conduct of Hearing 進行聆訊**

- The hearing shall be conducted by the Panel, which may: 聆訊由調查小組進行，其中可能：
  - Hear representations and evidence from both parties. 聽取雙方申述及證據。
  - Cross-examine witnesses. 盤問證人。
  - Seek advice from an adviser or Duty Counsel appointed by the HKIE. 向香港工程師學會委任的顧問或當值法律顧問尋求意見。
- The Panel shall deliberate in private and deliver a written decision within a reasonable time. 調查小組須私下商議，並在合理時間內交付書面決定。
- The oral hearing shall be sound recorded to ensure that all proceedings are accurately captured. This recording may be utilised by any involved party for any appeal procedures that may arise. 口頭聆訊須進行聲音錄音，以確保所有程序準確記錄。此錄音可供任何相關方用於可能出現的任何上訴程序。

## 5. Follow-Up Actions 後續行動

### 5.1 Corrective Measures 糾正措施

- For substantiated complaints, the CDRC shall monitor the implementation of corrective actions (e.g., training, suspension). 對於成立的投訴，CDRC須監察糾正行動的實施（例如培訓、暫停資格）。
- Regular follow-ups shall be conducted to ensure compliance and assess the effectiveness of the measures taken. 須定期進行跟進，以確保遵守並評估所採取措施的有效性。

### 5.2 Preventive Measures 預防措施

- **Training and Development:** Regular training sessions shall be conducted for Adjudicators. Listed Adjudicators shall be required to comply with CPD requirements. 培訓及發展：須為審裁員定期舉行培訓課程。列入名冊的審裁員須遵守持續專業發展要求。
- **Performance Monitoring:** A system for ongoing performance evaluation of Adjudicators shall be implemented to identify and address issues proactively. 表現監察：須實施審裁員持續表現評估系統，以主動識別及處理問題。
- **Transparency:** These regulations shall be published and made accessible to the public. 透明度：本規例須公布並供公眾查閱。

## 6. Appeal 上訴

- Within 28 days after being served with any decision of the Panel on, or any order or orders of the CDRC for, improper conduct, the Adjudicator whose conduct was the subject of such decision or order of the CDRC may appeal to the Appeal Panel by giving a written notice to the CDRC. 在收到調查小組對不當行為的任何決定，或CDRC的任何命令後的28天內，行為受該決定或CDRC命令規管的審裁員，可向CDRC提交書面通知，上訴至上訴小組。
- Upon receipt of an appeal notice, the CDRC shall appoint an Appeal Panel to consider such appeal. 在收到上訴通知後，CDRC須委任上訴小組考慮該上訴。
- The Appeal Panel shall from time to time fix directions on future conduct of the appeal in such manner as it deems appropriate. Unless the Appeal Panel directs otherwise, it shall not recall witnesses who gave evidence before the Panel or call other witnesses, and the material before the Appeal Panel shall be the record of the proceedings of the Panel and its report and any documents which supported such record or report together with any additional written submissions made in support of the appeal and any response made by the Adjudicator. 上訴小組須不時訂立其認為適當的未來上訴進行指引。除上訴小組另有指示外，上訴小組不得重新傳召曾在小組前作證的證人或傳召其他證人，而上訴小組面前的資料須為小組程序記錄及其報告，以及支持該記錄或報告的任何文件，連同任何支持上訴的額外書面陳述及審裁員的任何回應。
- The decision of the Appeal Panel shall be communicated in writing to the

parties concerned. 上訴小組的決定須以書面形式通知相關各方。

## **7. Effective Date 生效日期**

- These regulations shall take effect on 28 August 2025. 本規例於2025年8月28日生效。

## **Conclusion 結論**

These regulations aim to establish a clear, transparent, and efficient mechanism for handling complaints against Adjudicators, ensuring accountability and maintaining public confidence in the adjudication process. 本規例旨在建立清晰、透明及高效的機制，用以處理對審裁員的投訴，確保問責並維持公眾對裁決程序的信心。

**The Hong Kong Institution of Engineers**

香港工程師學會

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