

APQS Disciplinary Process

QS Division APQS Disciplinary Process

A. Disciplinary Powers

1. The SISV QS Division Council (hereinafter called the Council) shall have power to be exercised in the circumstances set out hereunder, by a simple majority of all the elected members of the Council, at a meeting of the Council convened for the purpose: -
 - a) To reprimand an APQS.
 - b) To suspend an APQS from exercising any rights or privileges of membership of the Institute for such a period or on such conditions as the Council may determine.
 - c) To expel a member from the Institute / withdraw APQS certification.
2. The Council may expel an APQS / withdraw the APQS certification of any person convicted of embezzlement, larceny, fraud or other criminal offence upon proof to their satisfaction of such conviction.
3. The Council may temporarily suspend an APQS pending an inquiry as hereinafter provided.
4. The Council may after inquiry as hereinafter provided expel, suspend or reprimand an APQS who: -
 - a) in their opinion has been guilty of disgraceful conduct, or
 - b) has violated any of the provisions of the Code of Professional Conduct of SISV QS Division, or
 - c) is adjudicated bankrupt or individually or as a partner assigned substantially the whole of his estate for the benefit of his creditors or under an order of any court or has under any deed or instrument placed substantially the whole of his estate in the hands of an assignee or trustee for the benefit of his creditors or made any arrangements for payment of a composition to his creditors, or
 - d) uses any professional / APQS designation or initials to which he is not entitled, or
 - e) being in the Quantity Surveying profession in partnership with any person not a member of the Institute, uses or permits to be used in conjunction with the title of the firm the designatory letters, or description indicating membership of the Institute, or
 - f) fail to comply with the Rules and Guides for Continuing Professional Development without sufficient reason (the sufficiency of which is to be determined solely by the Council).

B. Disciplinary Procedures

1. The Council may on grounds which seem to them proper hold or order an inquiry into the conduct of a an APQS. They shall hold or order such inquiry, setting out the complaint against an APQS, unless after a preliminary investigation (which may be conducted by the Council) they find no reason to proceed further in the matter. If on such investigation it is decided not to proceed further with the matter, no entry of the complaint shall be made in any Institute's personal record of the APQS concerned.
2. The Council shall as required appoint from the members of the Council a committee (hereinafter called the "Disciplinary Committee") to which all matters of professional conduct shall be referred. Provided that in any particular case the Council may resolve: -
 - a) To inquire into the case themselves; or
 - b) That the case be referred to an Ad Hoc Committee of members appointed by the Council; such committee shall in relation to any case so referred be deemed to be the Disciplinary Committee and provisions of these Byelaws shall apply accordingly.
3. The quorum of the Disciplinary Committee shall be three (3) members, of which at least one (1) of the three (3) shall be from a Fellow.
4. Any matter of professional conduct shall unless the Council otherwise direct, be considered in the first instance by not less than three (3) members of the of whom the President or one of the Vice-Presidents shall be one of the said three (3) members appointed, who shall if they are satisfied that a prima facie case for inquiry exists order that the case (hereinafter called "the Complaint") be referred to a Disciplinary Committee for investigation, and a notice of complaint as hereinafter provided signed by the Honorary Secretary of the Council shall be served upon the APQS concerned."
- 5. APQS's right to rebut or explain**
 - a) The APQS concerned shall be entitled to appear before a Disciplinary Committee and to rebut or explain the matters of which complaint is made, either personally or in writing provided he files the notice or reply prescribed under sub-paragraph b) of this Byelaw.
 - b) Within fourteen (14) calendar days of the service upon him of a notice of complaint the APQS concerned may deliver or send by post to the Honorary Secretary either a notice of intention to appear or a reply to the charge or both.
 - c) If the APQS concerned fails to file such a notice or reply to the Disciplinary Committee or the Council may consider and act upon the complaint without further reference to him.
6. Any notice sent pursuant to above Clause B.4 shall be sent by registered post to the last known address of the APQS concerned. The notice shall contain short particulars of the complaint and state the date, time and place of the meeting at which the complaint will be considered. It shall call upon the APQS to rebut or explain the matter of which complaint is made either in writing or personally or both and notify him that his reply or notice of intention to appear must be received by the Honorary Secretary within fourteen (14) calendar days of the service upon him of the notice, and of the right of the Disciplinary Committee and the Council to proceed in his absence.

7. The Disciplinary Committee shall have power to extend the time within which a reply or notice of intention to appear must be made and to alter the date of the meeting, adequate notice of such alteration being given to the APQS concerned.
8. At the meeting of the Disciplinary Committee to consider the complaint the Committee may resolve to: -
 - a) dismiss the charge against the APQS; or
 - b) reprimand the APQS and warn him not to repeat or continue the conduct on which the complaint was founded subject to the right of the APQS when informed of the committee's resolution to require them to make a report to the Council; or
 - c) report the result of the inquiry to the Council and the APQS shall be notified accordingly.
9. If the Disciplinary Committee reports any complaint to the Council or if the Council decides to inquire into the complaint themselves, a date, time and place shall be appointed for a meeting of the Council for the consideration of the report or complaint, at which the Council may exercise the powers conferred by Clause A. The provisions hereinafter set out as the rights of the APQS concerned to appear or reply to the complaints and the requirements of notice shall apply mutatis mutandis, provided always that if the matter comes before the Council on a report from the Disciplinary Committee the APQS shall have no right of appearance before the Council unless he shall have replied to the complaint or appeared before the Disciplinary Committee. It shall be the duty of the Honorary Secretary of the Council to ensure that the Council be convened as soon as possible to receive the report or investigate the complaint.
10. A notice of the decision of the Council and the effect thereof shall be sent through the Honorary Secretary to the APQS concerned.
11. The decision of the Council shall be final and not subject to appeal or review.
12. Any Council Member or any Disciplinary Committee Member chosen to consider any complaint, should report any conflict of interest as soon as possible. They may either recuse themselves or leave the matter up to the President to decide whether their involvement would impinge on impartiality. The President may decide for example to allow the continued involvement, but that the Committee Member shall have no voting rights, for example.
13. Not used
14. Not used
15. If it is determined that an APQS is to be expelled, his name shall be deleted from the Register, and he shall thereupon cease for all purposes to be an APQS. He shall not use any designation or description implying membership or former membership of the APQS status and shall immediately return his diplomas of APQS certificate.
16. If it is determined that an APQS is to be suspended, the APQS shall not use any designation or description implying membership or former membership of the APQS status during his suspension and shall immediately return his diploma of APQS certificate.

17. If an APQS fails or refuses to comply with restriction on use of designation in Clause B.14 and B.15 the Council may, and in the case of expulsion the Council shall publish in the Institute's website or periodical details of any of the penalties which they may impose with such particulars as they think proper of the offence for which the penalty was incurred, and with the name and address of the APQS upon whom such penalty has been imposed.
18. No APQS shall be entitled to resign from the Institute after he has been notified of the commencement of any proceedings against him, until such proceedings have been concluded.
19. The Council shall be entitled to proceed with the expulsion of an APQS under Clause A and to publish a notice of such expulsion, notwithstanding the resignation or purported resignation of such APQS.

20. Termination of Suspension

- a) An APQS who has been suspended (except temporarily under Clause A for non-payment of subscription or other dues) and who desires to have his rights and privileges restored to him, shall be required to apply in writing for the restoration of his rights of APQS status, and the application shall, if the suspension is upon conditions, be referred to the Disciplinary Committee who may hold an inquiry, and shall report to the Council whether in their view the conditions of suspension have been complied with. Like provisions in regard to notice and the right of appearing before the Disciplinary Committee as are contained in Clause B.4 and B.5 shall apply mutatis mutandis to any inquiry but an APQS suspended on conditions shall not have the right of appearance before the Council.
 - b) A suspended APQS remains subject to the Byelaws and regulations.
21. The term "Honorary Secretary" as used in Clause B shall include the Honorary Secretary of the Council or other person appointed by the Disciplinary Committee to act as Secretary.

C. REINSTATEMENT

22. The Council shall have power at any time to reinstate in his former class of APQS status any person who had been expelled or whose name has been deleted from the Register of the Institute, either unconditionally or upon such terms as to payment of arrears of subscription or such other sums in lieu of subscription, during the period of expulsion or otherwise as to them may seem expedient provided such person applies in writing for reinstatement and his application is accompanied by the form of promise prescribed in Byelaw 25.8.1.
23. Any application for reinstatement may be referred by the Council to the Disciplinary Committee for investigation and report.