

## Disciplinary Review Procedure for BEAM Pro/BEAM Affiliates

This procedure sets out how suspected violations of the Rules of Conduct by BEAM Practitioners (i.e. BEAM Pro / BEAM Affiliates) shall be dealt with.

### 1. Initial Evaluation

- 1.1 A standard complaint form is available on HKGBC website for complainants to report complaints about BEAM Practitioner. Upon receipt of a complaint of suspected violation of Rules of Conduct by a Practitioner, or when such suspected violation is known to have occurred, the Head of Green Labelling of Hong Kong Green Building Council (HKGBC) Secretariat will confer with the Chairman and Vice-chairman of the Green Labelling Committee (GLC) of HKGBC to carry out an initial evaluation.
- 1.2 If the initial evaluation team determines that the complaint is frivolous, irrelevant to any BEAM Practitioner, OR does not involve a contravention of the Rules of Conduct, no further action will be taken.
- 1.3 If the complaint/incident is a prima facie case of a Practitioner contravening the Rules of Conduct, it will be tabled at a GLC meeting for further processing.
- 1.4 The person or entity submitting the complaint will be notified of the decision resulting from the initial evaluation.

### 2. Disciplinary Hearing

- 2.1 The GLC will appoint a Disciplinary Hearing Panel (DHP) to inquire into whether violation of Rules of Conduct by a Practitioner has occurred. The DHP shall be composed of three members from among the current GLC members. These three members shall comprise two GLC Members/Co-opted Members and one Advisor. The decision within the DHP will be reached at least by majority vote.
- 2.2 The Secretariat of HKGBC will notify the subject Practitioner that he or she is the subject of an inquiry for a suspected violation of the Rules of Conduct, and he or she may elect either to make a written submission to or to attend an oral hearing before the DHP on a date to be notified by the Secretariat of HKGBC to the subject Practitioner.
- 2.3 If the subject Practitioner elects a written review, he or she will compile and submit a written response within such period as stipulated in the notification in paragraph 2.2. All relevant evidence shall be supplied together with the response.

- 2.4 If the subject Practitioner elects to attend an oral hearing before the DHP, he or she will be required to submit a written statement setting out his/her initial response and supplying relevant evidence. Such a statement shall be submitted at least twenty-eight (28) calendar days before the hearing. With proper reason, the subject Practitioner may request an extension of time at least twenty-eight (28) calendar days prior to the hearing. The HKGBC has the absolute discretion as to whether to grant the extension of time. Any failure to attend the hearing without reason will be deemed to be the subject Practitioner's acceptance of the DHP determining the ruling based on documentary review. If the subject Practitioner intends to engage a legal adviser/legal representative at the hearing, he/she shall notify HKGBC in writing at least twenty-eight (28) calendar days before the hearing.
- 2.5 The DHP will compile a written decision, which will contain the factual findings, the conclusion as to whether the violation is established, associated reasoning and the proposed sanction if the violation is established. The sanction should be determined based on the seriousness of the violation, and it may include the following as appropriate:
- To openly reprimand the subject Practitioner;
  - To require the subject Practitioner to give a written undertaking to refrain from continuing or repeating the misconduct or contravention of the Rules of Conduct;
  - To suspend the credential of the subject Practitioner for a certain period;
  - To remove the name of the subject Practitioner from the register of Practitioners.
- 2.6 The written decision of the DHP under paragraph 2.5 will be submitted to the GLC for review. The GLC shall have the power to confirm or modify the decision.
- 2.7 The Chairman of GLC will sign the notification of the decision of the GLC under paragraph 2.6. The notification will be sent to the subject Practitioner by registered mail. The Practitioners directory website will be updated where necessary.
- 2.8 The person or entity who files a complaint against the subject Practitioner will be notified of the result of the inquiry and the action taken by the HKGBC.

### **3. Appeal**

- 3.1 If the subject Practitioner does not concur with the decision rendered by the GLC under paragraph 2.6, he or she may lodge an appeal to the Chairman of HKGBC.
- 3.2 The appeal under paragraph 3.1 must be submitted in writing and received by HKGBC within thirty (30) calendar days after the date of issue of the original decision. The appeal must set out valid ground(s) for the appeal. The appealing subject Practitioner shall submit the appeal letter together with an appeal fee of HK\$800. This fee will only be refunded to the appealing subject Practitioner if the appeal is successful.

- 3.3 The Chairman of HKGBC will appoint an Appeal Panel of three persons, comprising two Directors of HKGBC and one external member outside the Board. The members of the Appeal Panel shall not be any of the members of the GLC who made the decision in paragraph 2.6.
- 3.4 The Secretariat of HKGBC will compile an Appeal Written Brief for the Appeal Panel.
- 3.5 The Secretariat of HKGBC will present the case to the Appeal Panel. Normally, the Appeal Panel will render a decision based on the Appeal Written Brief presented to them. Where deemed necessary, the Appeal Panel may also choose to conduct an anew written review as described in paragraph 2.3, or an anew oral hearing as described in paragraph 2.4.
- 3.6 In order to overturn the original decision in paragraph 2.6, it must be demonstrated that the decision was arbitrary or capricious. Proof is by preponderance of evidence.
- 3.7 The Chairman of HKGBC will sign the decision of the Appeal Panel and it will be sent to the appealing subject Practitioner by registered mail. The decision of the Appeal Panel shall be final.

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