

DISCIPLINARY INVESTIGATION

- WHAT HAPPENS

This leaflet is intended to assist members who are the subject of a disciplinary investigation, describe how the disciplinary structure works, how the proceedings of the disciplinary bodies are conducted and the rights of a member in those proceedings, and answer some possible questions.

Please note however that this is intended only as general guidance on the subject of disciplinary proceedings. The full disciplinary arrangements can be found in the ICOSA Bye-laws 54.1 - 58.8 and in the Disciplinary Regulations from time to time in force, copies of which are sent to members who are the subject of an investigation.

How a Disciplinary case arises

Sources

- **Complaints**
Anyone can make complaint against a member by another member or other professional, a client or other member of the public, an employer or ex-employer, etc.
- **Criminal proceedings and investigations by the authorities**
If a member is the subject of criminal proceedings or other investigation by the authorities, this may be notified to the Association either by a direct enquiry from the authority concerned, or by other means.

From the member

In some cases, for example bankruptcy, or pending criminal proceedings, the member may decide to notify the Association direct.

As a matter of policy, all complaints or circumstances notified to the Association and appended with a duly completed statutory declaration which may fall within the disciplinary bye-laws will be referred to the SAICSA National Investigation Group.

Disciplinary matters - What they are

The Bye-laws specify four categories of circumstances which will trigger further investigation and possible disciplinary action, which are summarised briefly here:

- Bankruptcy
- Conviction of an offence discreditable to the Institute and the Association
- Conduct which is or may be discreditable to the Association and the Institute, and
- Contravention of any of the Institute's Bye-laws or other regulations and the Association's constitution

The Disciplinary Bodies

For members in Singapore, the bodies concerned are:

SAICSA National Investigation Group (SNIG)
SAICSA National Disciplinary Tribunal (SNDT)
SAICSA Appeal Tribunal (SAT)

These bodies are generally comprised of members of council and other senior Fellows of the Institute & Association.

Their Functions

SAICSA National Investigation Group ('SNIG')

SNIG investigates all complaints and all circumstances relating to the disciplinary Bye-laws and decides whether there is a case for the member to answer. If so, it draws up a charge or charges, prepares a report, and refer the case to the SAICSA National Disciplinary Tribunal. If not, the matter goes no further.

SAICSA National Disciplinary Tribunal ('SNDT')

SNDT receives cases referred by SNIG and decides if it considers that the charge/s are proved. If so, it draws up recommendations on what penalty/ies should be imposed and a ruling on whether the report should be published.

SAICSA Appeals Tribunal ('SAT')

SAICSA hears appeals and may confirm, vary or reverse the SAICSA National Disciplinary Tribunal's decision.

What happens if you become the subject of a disciplinary investigation ?

Before SNIG meets, you will be notified of the complaint or other circumstances and will be sent copies of any documents and will be asked for your comments in writing.

It is very important that you respond promptly to this request, even if your initial response is merely to acknowledge receipt and indicate how long you expect to take to prepare your submission, because **failure to reply to important correspondence from the Association may be regarded in itself as grounds for disciplinary action.**

You may be asked to appear personally at the SNIG meeting.

After the SNIG meeting you will be advised in writing of the outcome of that meeting:-

- That the matter is to proceed no further - for example because SNIG considers that there is no case to answer, or that it does not consider that there are disciplinary issues concerned. Any complainant will be similarly notified, or
- That SNIG requires further information or explanation from you, for the next meeting, or
- That you are requested to keep the Association in touch with developments - for example, if you are currently the subject of criminal proceedings or other investigations by the authorities, which have not yet been concluded, or
- That SNIG has decided to refer the matter to SNTD. In that case you will be sent a copy of SNIG written report to SNTD including supporting documentation - i.e. you receive all the papers which are to be circulated to the members of SNTD at least six weeks notice of the date of the SNTD meeting.
- Information about your rights at this stage which are:
 - * To make a further submission in writing and/or
 - ** To appear at the meeting, with or without a personal representative, or to appoint another person to attend on your behalf.

At the SNTD meeting the charges will be heard together with your own written and/or oral submissions. If you attend the meeting you will be advised by the chairman at the time when you and/or your representative should withdraw from the meeting so that SNTD can decide on its recommendations.

After the meeting you will be told whether or not SDNT has made recommendations for disciplinary action. If it has you will be informed of:

The SDNT's decision, i.e. -

- Whether the charge/s were found proved
- What penalty or penalties if any are to be imposed
- Whether publicity is to be given to any penalty/ies imposed, and if so whether you will be identified by name in the publicity.
and
- Your right to appeal which must be exercised within a stated period. A notice of intention to appeal must be lodged within 28 clear days and a further six weeks are allowed to present the appeal in writing.
If you lodge an appeal this will be referred to the SAT which, if it decides to hear the appeal, will notify you of the procedure to be followed.

If SNNT has not made recommendation, you will be informed, as well as the complainant if any, and the matter will proceed no further.

Penalties

There are no mandatory penalties for any particular offence and each case is decided individually taking into account all the circumstances including any mitigating factors. The Bye-laws provide that any one or more of the following penalties may be imposed by the SNNT:

- exclusion from membership;
- suspension from membership either indefinitely or for a stated period;
- calling for and acceptance of resignation on disciplinary grounds;
- suspension of any rights of membership including the right to hold any particular class of membership;
- withdrawal of practising certificate;
- imposition of a fine;
- reprimand.

The penalty/ies may be publicised, usually by an announcement in the Association's Journal but sometime also by a press announcement, and the member may be identified by name.

Confidentiality

Disciplinary investigations are treated as a confidential matter between the Association and the member, apart from any publicity which may be given in accordance with the SNNT's decision. All meetings of the disciplinary bodies are held private.

Some Questions Answered

Where can I get advice about dealing with a disciplinary investigation against me?

While SAICSA can inform you about the methodology of an investigation, it cannot give advice, and you may wish to be independently advised, for example by a solicitor.

Can I resign instead?

No - once a complaint or other allegation has been received, the Association cannot accept an offer of resignation, although this may be accepted once the proceedings are concluded, depending on the decision of the IDT.

Will I know who will be the members of the SNTD in the event I choose to attend its meeting?

The Chairman of the SNTD will introduce the members of SNTD at the beginning of the proceedings, and nameplates will also be in place throughout the meeting.

How are the SNTD proceedings conducted?

An Association disciplinary hearing is not like a court of law. There is no 'prosecution' and evidence is not taken on oath. The SNTD considers the report of SNIG and supporting papers, and your written and / or oral submission/s, including any mitigating circumstances, and decides whether it believes the charge/s are proved, or not, and if so what penalty/ies to recommend. If you attend in person, you will probably be asked questions by the Chairman and other SNTD members, to provide further clarification where required, but in addition to this you will be given every opportunity to put your side of the case.

Do I have to attend the SNTD meeting?

Personal attendance is not compulsory, and a written submission is regarded as acceptable. It is for you to decide whether to exercise the right to attend, possibly after consultation with an independent advisor, for example a solicitor. As a matter of courtesy, intention not to attend should be notified to the Association in a letter.

Should I be legally represented?

The SNTD will not normally consult or have present a legal advisor, although some members of it may be legally qualified. If the charge against you is a serious one you may wish to be legally represented at the meeting, but again this is for you to decide.

How long does an investigation take?

A case may be expected to take, from initial investigation to appeal if any, from eight to ten months. Where criminal proceedings or other investigations by the authorities are in progress the Association's investigations will remain pending so in these cases there will be a longer timescale.

Dose the fact that an investigation is in progress affect my rights of membership in the meantime?

No - except that you would not be able to resign, or to be removed from register for non-payment of subscription. No action regarding membership would be taken until the SNTD's Decision had been made and either the period for appeal had elapsed or an appeal had been decided.