

# **SOUTH ISLAND I Q P REGISTRATION PANEL**

## **COMPLAINTS PROCEDURES**

### **APPENDIX 1**

**Procedure for the management of complaints relating to  
Independent Qualified Person registered on the South Island  
I Q P Register**

## CONTENTS INTERPRETATION

<b>ACT</b>	The Building Act 2004
<b>Panel</b>	means the Panel responsible for the administration of the South Island I Q P Register
<b>Secretary</b>	means the Secretary of the South Island I Q P Registration Panel.
<b>Chairman</b>	means the Chairman of the South Island I Q P Registration Panel.
<b>Complainant</b>	means any person who has complained to the South Island I Q P Registration Panel.
<b>Disciplinary matter</b>	means an inquiry into, or complaint about the conduct of an Independent Qualified Person
<b>Hearing</b>	Means a meeting of the Panel on a disciplinary matter.
<b>Independent Qualified Person (I Q P)</b>	<p>Means a person who is accepted as suitable as defined by BA 2004</p> <p><b>independently qualified person</b> means a person—</p> <p>(a) who is accepted by a territorial authority as being qualified to—</p> <p>(i) carry out or supervise all or some of the inspection, maintenance, and reporting procedures required for a specified system stated in a compliance schedule; and</p> <p>(ii) certify that those procedures have been fully complied with; and</p> <p>(b) whose acceptance under paragraph (a) has not been withdrawn by the territorial authority</p>
<b>Meeting</b>	means a meeting of a quorum of the Panel for purposes of undertaking the business of the South Island I Q P Registration Panel.
<b>Member</b>	means a member of the South Island Registration Panel
<b>Presiding Member</b>	means the chairperson of the Panel or if the chairperson is not present. The member elected by the Panel to be the presiding member.
<b>Register</b>	Means the register of Independent Qualified Persons approved by the South Island Registration Panel.
<b>Regulations</b>	Building (Specified Systems, Change the Use, and Earthquake-prone Buildings) Regulations 2005.
<b>Respondent</b>	means a registered Independent Qualified Person (I Q P) whose conduct has been complained about.
<b>Special Advisor</b>	means a person appointed by the Panel to assist them in investigating a complaint

## **2 GENERAL**

### **2.1 Scope of procedures and policies**

These procedures apply to:

- The hearing of complaints regarding the performance of Independent Qualified Persons registered with the South Island I Q P Registration Panel.
- All member Territorial Authorities (T A) of the SI I Q P register, maybe parties to a complaint.

### **2.2 Legislative framework**

#### **The Building Act**

- The Building Act 2004 sets out the requirements for the issue of Compliance Schedules and provisions relating to the issue and receipt of Building Warrant of Fitness' ( BWOFs )
- Building ( Specified Systems, Change the Use, and Earthquake-prone Buildings ) Regulations 2005
  - This regulation identifies the Specified Systems required to be identified in a Compliance Schedule.
- Building ( Forms) Regulations 2004

This regulation prescribes the forms to be used in the compliance schedule and BWOF process.

## **3 COMPLAINTS**

### **3.1 Introduction**

- Any person may complain to the South Island I Q P Registration Panel about the conduct or behaviour of a Independent Qualified Person.

### **3.2 Grounds for complaint**

The registration Panel may take disciplinary action in relation to a complaint or a matter raised by the Panels own inquiries, if they are satisfied that an Independent Qualified Person;

- has been convicted of an offence punishable by imprisonment
- has carried out I Q P work that the person is not approved to carry out.
- has provided a false or misleading building warrant of fitness.
- has provided a false or misleading information to owners, TA's or any other person.
- has provided a false statement in respect of any work.
- has offended in general against any of the provisions of the Building Act 2004 and associated Regulations in respect of Compliance schedules, BWOFs or the issue of Form 12As

### **3.3 Making a complaint**

A complaint must be made in writing to the Registration Panel, the complaint should include:

- Name and contact details of the complainant
- The name and contact details of the person who is being complained about.
- Details of the complaint and

- any available evidence supporting the complaint.

### **3.4 Upon receipt of complaint**

The Secretary shall:

- Receive the complaint; and
- Ensure that there is sufficient information provided to support a complaint.
- Acknowledge receipt of the complaint to the complainant; and
- If a complaint had not been lodged correctly, the secretary will contact the complainant and request the additional information required.
- Advise the respondent that a complaint had been received, and that further correspondence providing details about the subject matter of the complaint, and about the disciplinary process that will follow.

### **3.5 Jurisdiction**

Confirming validity of complaint

In checking whether a complaint is valid the Panel may need to consider issues such as:

- Whether the person being complained about was an approved I Q P at the time when the work complained about was carried out.
- Whether the complaint clearly does not warrant further investigation, e.g. trivial or the I Q P no longer practices.
- The Panel must consider whether or not to:
  - Dismiss the complaint
  - Proceed to investigate the complaint
  - Refer the complaint to another organisation

### **3.6 Lapse of complaint**

- If the complaint is not lodged correctly within three months after contact with the Secretary, the secretary will advise the complainant in writing that the complaint has lapsed and no further action will take place.
- If a complaint is lapsed the Secretary will provide the Panel with a summary of facts.

### **3.7 Consolidation of complaints**

- If two or more complaints are about substantially the same I Q P or subject matter, the complaints may be consolidated into one hearing.

### **3.8 Withdrawal of complaint**

- A complainant may withdraw his or her complaint at any time by notice in writing to the Secretary.
- On receipt of the notice of the withdrawal the Secretary will immediately advise the Presiding Member and the respondent.
- Despite the withdrawal of a complaint (including after a hearing has been commenced ) the Panel may make inquiries into, or continue to investigate the complaint.

### **3.9 Secretary's report**

- The Secretary must prepare a report once a complaint has been referred to the SI I Q P registration Panel
- The report must include full details of the complaint, if known, and
- Must notify the respondent of the nature of the complaint against him or her
- Must provide to the respondent all of the information supplied by the complainant
- Must invite the respondent to comment on the facts and evidence provided by the complainant, and to provide any additional relevant information and evidence within 20 working days of receipt of the secretaries letter

### **3.10 Registration Panels Consideration**

- After considering the secretaries report the registration panel must decide whether or not it will proceed with the complaint.
- If the panel decides to proceed then it may continue its investigation and must then hold a hearing, either in person or on the papers.
- May ask any special adviser to provide comments, opinion, or advice on any information supplied by the complainant or respondent.

### **3.11 Hearings**

- The Panel must conduct the hearing in a inquisitorial manner, rather than adversarial one, and must avoid unnecessary formality.

Hearings in person will generally adopt the following procedure

- The presiding member commence the hearing by:
- Commencing an electronic recording of the hearing
- Stating his or her name, inviting the other attending Panels members, the Secretary, the complainant, the respondent and counsel ( if applicable ) to introduce themselves by stating their name.
- Reading into the record a statement about the purpose of the hearing, including the details of the complaint
- Providing a summary of the procedure that will be adopted for the hearing
- Explaining that if a party is to give evidence, they will be sworn by taking an oath on the Bible or making an affirmation
- The Secretary presents the report on the complaint summarising the details of the complaint, including the grounds for the complaint and any facts disputed between the parties.
- The complainant is to be provided with the opportunity to confirm that the Secretary's reports are accurate and to provide any further information
- The respondent is invited to respond to the Secretary's report and present any argument and/or evidence in support of his or her defence of the complaint. The respondent may also ( with the permission of the Board ) question the complainant and any witness.
- The panel may question the complainant, the respondent and any witness at any time during the hearing
- Both the complainant and respondent are to be invited to make a closing statement

- The presiding member closes the hearing and advises the respondent that a decision, with reasons, will be issued in writing as soon as practicable.

### **3.12 Hearing location**

Hearings (conducted in person) will generally be held, at the discretion of the Panel.

### **3.13 Hearing quorum**

A quorum for the hearing of a complaint is:

- Not fewer than two panel members and the presiding member.

### **3.14 Presiding member**

- At a complaint hearing the Chairperson presides. If the Chairperson is not available a Deputy Chairperson shall preside.

### **3.15 Who may be heard at hearing**

The following persons are entitled to be heard at a hearing.

- The complainant
- The respondent
- Witness for the respondent and complainant.
- Any persons summonsed as a witness by the Panel
- Special advisers appointed by the Panel
- The secretary
- Any member of the Panel
- Any other person with the permission of the panel.

### **3.16 Witnesses**

A person intending to call witnesses must submit a list of witnesses to the Board at least 5 working days before the commencement of the hearing and may be required to provide briefs of evidence.

### **3.17 Hearing procedure**

- Hearings are to be held in public.
- The respondent may request that the hearing or part of the hearing be held in private. A request for a hearing to be held in private must be considered by the Panel.

### **3.18 Panel Decision**

- The panel will deliberate in private before reaching a decision on a complaint. No persons other than the Panel members who were at the hearing are to be present.
- A decision of the Panel must be made by resolution voted by the majority of members.
- The Panel will issue its decision to the respondent, with a copy to the Complainant as soon as practicable after coming to a decision on the complaint.

The Panel's decision must –

- Be in writing;
- State the reason for the decision;
- Show cause why the I Q P should not be removed from the register. This will be considered when deciding what disciplinary penalty will apply.
- Contain any directions necessary for the secretary to implement the Panels decision;
- Be signed by the presiding member of the Panel;
- Set out the disciplinary penalty imposed, the date the penalty applies from and if applicable, the date the penalty is served;
- Set out any rights of appeal that the respondent may have.
- Set out the details of the publication of the decision ( if applicable )

### **3.19 Disciplinary penalties**

The panel may impose one of the following disciplinary penalties

- Direct the Secretary to remove the respondent's names from the register.
- Suspend the respondents practicing certificate for a period of up to 12 months or until the respondent meets conditions applied by the Panel.
- Restrict the respondent to the type of work, and/or supervision by another I Q P.
- Order that the respondent be censured.

### **3.20 Implementing the board's decision**

- The Secretary must implement the Panels decision as soon as practicable and advise the respondent when it is done, and not later than 10 working days.