

Construction Industry Security of Payment Ordinance

Code of Conduct

1. Independence and Impartiality

An adjudicator has an overriding obligation to act fairly and impartially as between the parties, this requires that an adjudicator remain independent and impartial towards the parties and any representatives involved in the dispute during all stages of the adjudication.

2. Conflicts of Interest and Disclosure of Interest

An adjudicator shall be free from bias and shall disclose any interest or relationship likely to affect his or her impartiality or which might reasonably create an appearance of partiality or bias. This is an ongoing duty and does not cease until the adjudication has concluded.

An adjudicator shall not permit outside pressure, fear of criticism, or any form of self-interest to affect his or her decisions and shall not accept any gift or substantial hospitality, directly or indirectly, from any party to the adjudication except in the presence of the other parties and/or with their consent. An adjudicator shall not intentionally omit any disclosure nor provide any false information regarding conflicts of interest.

3. Duty of Good Faith and Competence

An adjudicator shall act in good faith and to the best of their ability.

An adjudicator shall familiarize themselves with the requirements of the prevailing Security of Payment Legislation, The Hong Kong Institute of Architects (HKIA) Adjudication Rules and Practice Notes and the Unified Guideline on Conflicts of Interest issued by the Development Bureau.

An adjudicator shall only accept an appointment if he or she has suitable experience and ability to adjudicate the case.

An adjudicator shall refrain from making, or allowing to be made on his or her behalf, any representation about the adjudicator's experience or expertise which is misleading or deceptive or is reasonably likely to mislead or deceive.

An adjudicator shall not delegate any determination that he or she is entitled to make, unless permitted by the parties or by law.

4. Integrity and Professional Conduct

An adjudicator must at all times conduct themselves professionally and with dignity and not behave in a manner which might reasonably be perceived as a conduct which is unbecoming of or which diminishes the standing of the HKIA. This includes:

- Communicating with those involved in the adjudication proceedings with courtesy and respect;
- Carrying out his or her role in a conscientious and diligent manner; and
- Preparing appropriately for the adjudication proceedings.

An adjudicator shall disclose on his or her own initiative to the HKIA if he or she has been found guilty by a Court of corruption and dishonestly-related offences (e.g. fraud, conspiracy to defraud) or by a disciplinary tribunal of misconduct.

5. Duty to Render Timely Decision

An adjudicator shall only accept an appointment if he or she has the available time to proceed with the adjudication and shall endeavor to ensure that decisions are rendered in a timely manner and in accordance with the requirement set out in the prevailing Construction Industry Security of Payment Ordinance (the “Ordinance”).

An adjudication shall not unduly delay the completion of the adjudication proceedings.

6. Confidentiality

An adjudicator shall ensure that information acquired in the course of, or in connection with, the adjudication shall be kept confidential and shall refrain from disclosing or using any such information (unless otherwise agreed by all parties, or permitted or required by law). This duty is not exhausted with the termination of the adjudication, and extends to any time thereafter.

7. Fees and Expenses

An adjudicator’s fees and expenses must be reasonable taking into account all circumstances of the case, and shall be calculated in accordance with the Fee Schedule published on the HKIA’s website at the time the adjudication is initiated. An adjudicator shall furnish to HKIA, together with the determination, a reasonably detailed statement showing the time expended on the adjudication to enable verification of his fees and expenses where appropriate. An adjudicator shall disclose and explain the basis of his or her fees and expenses to the parties as necessary.

8. Compliance with the Ordinance and Other Related Documents

An adjudicator shall at all times comply and act in accordance with the prevailing Security of Payment Ordinance, the HKIA Adjudication Rules and the Practice Notes and the Unified Guideline on Conflicts of Interest issued by the Development Bureau; and maintain integrity and fairness of the adjudication.

An adjudicator shall not take up appointment as adjudicator if he or she is unable to comply with this Rule 8 and shall withdraw as an adjudicator if circumstances render it no longer possible for him or her to do so.

9. Solicitation of Work

Adjudicators may publicize their expertise and experience but shall not actively solicit appointment as adjudicators.

10. Complaints

In the event of any complaint against an adjudicator, the adjudicator agrees to submit to the complaints procedure set out on the HKIA’s website at: <https://www.hkia.net/en/whats-on/3/information/detail/833>. The adjudicator shall afford all assistance to enable any panel, committee, or tribunal to determine the merits of the complaint.