

**EXPLANATORY GUIDE TO DISCIPLINARY PROCEEDINGS
for Handling Complaints against Registered Social Workers**

**紀律程序說明指南
處理對註冊社會工作者投訴**

<p>Interpretation</p> <ol style="list-style-type: none"> 1. The Social Workers Registration Board (the Board) is empowered by the Social Workers Registration Ordinance (Cap. 505) (the Ordinance) to deal with complaints against registered social workers (RSWs) alleged to have committed a disciplinary offence. 2. Complaints against RSWs are handled by the Board in accordance with Part IV (Disciplinary Proceedings) of the Ordinance. The details of the disciplinary procedures are set out hereunder. 3. This explanatory guide is for information only. The Ordinance as well as the pertinent rules and guidelines made by the Social Workers Registration Board remains the sole authority for the interpretation and implementation of the provisions of the Ordinance and the procedures of relevant proceedings. 	<p>引言</p> <ol style="list-style-type: none"> 1. 《社會工作者註冊條例》(第 505 章) (《條例》) 授權社會工作者註冊局(註冊局) 處理對註冊社工涉嫌作出違紀行為的投訴。 2. 註冊局根據《條例》第四部(紀律處分程序) 處理對註冊社工的投訴。紀律程序詳列於下文。 3. 此說明指南只供參考，一切有關法例的詮釋及程序的進行，均以《條例》及註冊局制訂的規則和指引為依歸。
<p>Disciplinary Offences</p> <ol style="list-style-type: none"> 4. An RSW commits a disciplinary offence if he/she <ol style="list-style-type: none"> (a) commits misconduct or neglect in any professional respect; (b) has been convicted of an offence under this Ordinance; (c) has obtained registration by fraud or misrepresentation; (d) without reasonable excuse, refuses or fails to attend before a disciplinary committee when summoned either as a witness or as a person in respect of whom the disciplinary committee is meeting; (e) has been convicted in Hong Kong or elsewhere of any offence which may bring the social work profession into disrepute; and is punishable with imprisonment, whether or not the person was sentenced to imprisonment; or (f) has been convicted of an offence in Hong Kong or elsewhere that comes within any of the descriptions specified in Schedule 2 of the Ordinance. 	<p>違紀行為</p> <ol style="list-style-type: none"> 4. 註冊社會工作者如有以下情況，即屬作出違紀行為 – <ol style="list-style-type: none"> (a) 在專業方面有失當或疏忽行為； (b) 被裁定犯下本條例所訂的任何罪行； (c) 以欺詐手段或失實陳述而獲得註冊； (d) 無合理辯解而拒絕或沒有出席紀律委員會，而當時該社會工作者是以證人身份被傳召的或紀律委員會就該社會工作者舉行會議而他是以此身份被傳召的； (e) 在香港或其他地方被裁定犯下任何可令社會工作者專業的聲譽受損的罪行；及任何可判處監禁的罪行(不論該人有否被判處監禁)；或 (f) 被裁定犯下《條例》附表 2 所指明的任何類別的範圍的罪行。

<p>Complaints</p> <p>5. All complaints must be lodged in a specified “Complaint Form” available at the Board office or on the Board’s website.</p> <p>6. Upon receipt of a complaint lodged by a clearly identified complainant or a group of complainants with name(s) and means of contact such as address and telephone number provided, alleging a disciplinary offence committed by an RSW, the Registrar will, in the first instance, refer the complaint to the two Board members appointed by the Board under section 25(3) (the two members) for initial consideration.</p> <p>Consideration of Complaint</p> <p>7. Having regard to the information available in the complaint lodged, the two members: -</p> <p>(a) shall refer the complaint to the Board unless they are satisfied for the circumstances referred to in Sections 25(3)(a) to (h) of the Ordinance;</p> <p>(b) may refer the case, in whole or in part, to the Board for appointing five members of the Disciplinary Committee Panel to form a Disciplinary Committee to inquire into the complaint;</p> <p>(c) may collect further information on the complaint from the complainant(s) and/or the RSW being complained; or</p> <p>(d) may seek clarification of facts from relevant personnel, agencies, or government departments in regard to a publicly known case.</p> <p>(e) may engage, when it is considered the complainant is under-privileged, a legal advisor to walk through the disciplinary proceedings with the complainant so as to facilitate the disciplinary hearing.</p> <p>Disciplinary Hearing of Disciplinary Committee</p> <p>8. Should a disciplinary hearing be considered necessary, the Board shall, not later than 30 days after a complaint is referred to it by the two members, appoint five members of the Disciplinary Committee Panel to form a disciplinary committee to conduct a hearing. A name list of the current Disciplinary Committee Panel members is shown on the Board’s website.</p> <p>9. The RSW being complained (also referred to as the respondent of the hearing) will be informed of the composition of the Disciplinary Committee appointed</p>	<p>投訴</p> <p>5. 所有投訴必須以指明的「投訴表格」提出。投訴表格可於註冊局辦事處索取或從註冊局網頁下載。</p> <p>6. 當註冊主任收到指控註冊社工作出違紀行為的投訴，而該位或該群投訴人的身份能被清楚識別，並已提供其姓名及聯絡方法如地址和電話，註冊主任將即時轉介投訴予註冊局根據《條例》第 25(3)條委任的兩名註冊局成員（該兩名成員）作初步審議。</p> <p>審議投訴</p> <p>7. 根據投訴中提供的資料，該兩名成員：-</p> <p>(a) 除非在《條例》第 25(3)(a) 至 (h) 所述的情況下，須將投訴轉介予註冊局；</p> <p>(b) 可轉介全部或部分個案予註冊局，由註冊局從紀律委員會備選委員小組中委出五名委員，組成紀律委員會，就投訴進行聆訊；</p> <p>(c) 可向投訴人及／或被投訴社工索取更多關於投訴個案的資料；或</p> <p>(d) 如投訴涉及已被廣為人知的個案，可向與投訴有關的人士、機構或政府部門查詢。</p> <p>(e) 當兩位成員認為投訴人屬於弱勢社群，可委託法律顧問向其簡介紀律程序，以便紀律聆訊可順利進行。</p> <p>紀律委員會的紀律聆訊</p> <p>8. 如有需要召開紀律聆訊，註冊局須在該兩名成員轉介投訴後的三十天內，從紀律委員會備選委員小組中委出五名委員，組成紀律委員會就投訴進行聆訊。現任紀律委員會備選委員小組成員名單詳見註冊局網頁。</p> <p>9. 當被投訴註冊社工（即聆訊答辯人）收到由註冊局的註冊主任根據《條例》第 27(1)條發出有關他／她被投訴的通知時，他／她亦將獲通知註冊局為聆訊而委任的紀律委員會備選委員小組</p>
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<p>by the Board for the hearing under section 27(1) of the Ordinance. The Board may consider any objection raised by the RSW being complained to the inclusion of any particular Panel member in the appointed Disciplinary Committee in the following circumstances:-</p> <p>(a) if the RSW being complained is the appointed Disciplinary Committee member's colleague (including immediate supervisor or subordinate) in the same work team in the current employment or, if the alleged offence was not committed in the current employment, in the employment when the alleged disciplinary offence took place; or</p> <p>(b) if the RSW being complained is the appointed member's family members, for example, parents, siblings, children or in-laws.</p> <p>10. The RSW being complained will be given 28 days' notice of the date, time and place of the hearing in accordance with section 27(5) of the Ordinance.</p> <p>11. At the hearing, both the complainant(s) and the RSW being complained will be given an opportunity to present their case and adduce evidence in support. Any other witnesses may also be called upon to testify in person at the hearing.</p> <p>12. At the conclusion of the hearing, having considered all the evidence adduced and any other relevant information available, the Disciplinary Committee will:-</p> <p>(a) where the RSW is not guilty of the disciplinary offence complained of, recommend to the Board that the complaint be dismissed; OR</p> <p>(b) where the RSW is guilty of the disciplinary offence complained of, recommend an appropriate disciplinary order to the Board.</p> <p>13. The Disciplinary Committee will report its findings and recommendation to the Board for consideration.</p> <p>The Board's Decision</p> <p>14. The Board, after considering the recommendation of the Disciplinary Committee, the reasons in support thereof, any evidence in respect thereof, and all relevant circumstances relating thereto, may decide:-</p> <p>(a) whether to endorse the recommendation of the Disciplinary Committee;</p> <p>(b) whether to further investigate the complaint or the disciplinary order recommended by the Disciplinary Committee by</p> <p>(i) referring the complaint back to the Disciplinary Committee which has reported</p>	<p>成員的名單。如聆訊答辯人因有以下情況，而反對任何備選委員小組的成員被委入紀律委員會，註冊局可予以考慮：</p> <p>(a) 如聆訊答辯人與獲委任的紀律委員會成員在現職或在被指稱違紀行為發生時的職位上於同一工作團隊中共事（包括直屬上司或下屬）；</p> <p>(b) 如被投訴註冊社工是被委任成員的親屬，如父母、兄弟姊妹、子女或姻親。</p> <p>10. 根據《條例》第 27(5)條，被投訴註冊社工將於聆訊前二十八天獲通知聆訊的日期、時間及地點。</p> <p>11. 聆訊進行時，投訴人與被投訴註冊社工均有機會就個案陳詞及舉證。其他證人亦可能被傳召於聆訊親身作供。</p> <p>12. 於聆訊完結時，紀律委員會在考慮所有證供及獲得的其他相關資料後，將達成以下決定 –</p> <p>(a) 如註冊社工沒有作出被投訴的違紀行為，它將向註冊局建議投訴應被駁回；或</p> <p>(b) 如註冊社工曾作出被投訴的違紀行為，它將向註冊局建議一項合適的紀律制裁命令。</p> <p>13. 紀律委員會將根據其裁斷及建議向註冊局提交報告，供註冊局考慮。</p> <p>註冊局的決定</p> <p>14. 經考慮紀律委員會的建議、支持該建議的理據、相關證據及所有有關的情況後，註冊局可決定：-</p> <p>(a) 是否接納紀律委員會的建議；</p> <p>(b) 是否以下列任何方式進一步調查該投訴或所建議的紀律制裁命令 –</p> <p>(i) 發還提交報告的紀律委員會進一步調查；或</p> <p>(ii) 委出另一紀律委員會進一步</p>
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<p>thereon for further investigation;</p> <p>(ii) appointing another Disciplinary Committee for further investigation.</p> <p>Disciplinary Orders</p> <p>15. Where the Board has decided that the RSW being complained has committed a disciplinary offence, it shall issue one of the following disciplinary orders to him/her:</p> <p>(a) order the Registrar to remove the name of the RSW from the Register permanently;</p> <p>(b) order the Registrar to remove the name of the RSW from the Register for such period (not being more than 5 years) as the Board thinks fit;</p> <p>(c) reprimand the RSW in writing and order the Registrar to record the reprimand on the Register; or</p> <p>(d) order that the Chairperson of the Board admonish the RSW orally.</p> <p>Appeal</p> <p>16. Any person who is aggrieved by the Board's decision on a complaint may appeal to the Court of Appeal against the decision and/or the disciplinary order issued by the Board within three months of notification of decision &/or disciplinary order.</p> <p>Notification of the Board's Ruling</p> <p>17. As soon as practicable after the Board has reached its decision on whether or not the RSW being complained has committed the alleged disciplinary offence, the Registrar will notify the complainant(s) of the decision and the reasons thereof. A copy of the Board's decision and a copy of any order made by the Board will be served on the RSW being complained; either personally or by registered post to his/her registered address.</p> <p>Publication of Disciplinary Orders</p> <p>18. After the expiry of the time within which an appeal against the Board's decision on a complaint and/or a disciplinary order may be made, or after the ruling of the Court of Appeal in the case of an appeal, the Board shall publish a copy of the order (except oral admonition) or the order as varied on appeal in at least one English and one Chinese language newspaper circulating generally in Hong Kong and in any other publication or manner as the Board thinks fit.</p>	<p>調查。</p> <p>紀律制裁命令</p> <p>15. 如註冊局裁定被投訴註冊社工曾作出違紀行為，它須向他／她發出以下任何一項紀律制裁命令：</p> <p>(a) 命令註冊主任在註冊紀錄冊內將該註冊社工的姓名永遠註銷；</p> <p>(b) 命令註冊主任在註冊紀錄冊內將該註冊社工的姓名註銷，為期一段註冊局認為合適的期間（但不超過五年）；</p> <p>(c) 以書面譴責該註冊社工和命令註冊主任將該項譴責記錄於註冊紀錄冊上；或</p> <p>(d) 發出紀律制裁命令，使註冊局主席口頭訓誡該註冊社工。</p> <p>上訴</p> <p>16. 任何人對註冊局就投訴的決定感到受屈，可於註冊局發出該決定或紀律制裁命令後三個月內就裁決及／或紀律制裁命令向上訴法院提出上訴。</p> <p>送達註冊局的裁決</p> <p>17. 當註冊局已被投訴註冊社工曾否作出違紀行為達成裁決後，註冊主任將在切實可行的情況下，盡快把註冊局的裁決及有關理由的文本，送達投訴人。另註冊主任亦將以面交或掛號郵遞方式，通知被投訴註冊社工有關註冊局的裁決及任何紀律制裁命令，並將該通知送達被投訴註冊社工的註冊地址。</p> <p>發表紀律制裁命令</p> <p>18. 在可就註冊局的投訴裁決及／或有關紀律制裁命令提出上訴的期限屆滿後，或如有上訴，在上訴法院就該上訴作出判決後，註冊局須將該命令或經上訴而有所更改的命令，在每日行銷於香港的中文及英文報章最少各一份發表，或註冊局認為合適的其他刊物或方式發表。</p>
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<p>19. The RSW being complained and being disciplined by the Board for committing a disciplinary offence and issued a disciplinary order as a result, should note the following:</p> <p>(a) Pursuant to sections 16(1)(a)(iii) and (b)(iii) of the Ordinance, the Board may direct that the Register shall contain the following additional details:</p> <p>(i) Any disciplinary order previously made under section 30(1)(b), i.e. “order the Registrar to remove the name of the social worker from the Register for such period (not being more than five years) as the Board thinks fit”, notwithstanding the expiry of the suspension period covered by the disciplinary order; and</p> <p>(ii) Any disciplinary order previously made under section 30(1)(c), i.e. “reprimand the social worker in writing and order the Registrar to record the reprimand on the Register”, within the duration specified by the Board, if any.</p> <p>(b) If the Board considers it appropriate and in the public interest, it may order the removal of the record of any disciplinary order from the Register on its own motion or upon the application of the RSW.</p> <p>(English version prevails over Chinese version if there is any discrepancy.)</p>	<p>19. 被投訴註冊社工如因作出違紀行為而被處以紀律制裁命令，亦須留意下列事宜：</p> <p>(a) 根據《條例》第 16(1)(a)(iii)及(b)(iii)條，註冊局可指示在註冊紀錄冊內包含下列附加資料：</p> <p>(i) 任何先前根據第 30(1)(b)條發出的紀律制裁命令，即「命令註冊主任在該冊紀錄冊內將該註冊社會工作者的姓名註銷，為期一段註冊局認為合適的期間（但不超過五年）」，儘管該紀律制裁命令中的註銷註冊期限已經屆滿；及</p> <p>(ii) 在註冊局指明的期限內（如有），任何先前根據第 30(1)(c)條發出的紀律制裁命令，即「以書面譴責該註冊社會工作者和命令註冊主任將該項譴責記錄於註冊紀錄冊上」。</p> <p>(b) 如註冊局認為在合適及在符合公眾利益的情況下，它可主動提出或因應被投訴註冊社工的申請，命令將任何紀律制裁命令的紀錄從註冊紀錄冊內刪除。</p> <p>（如中文譯本與英文原文有分歧，以英文原文為準。）</p>
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Supplementary Information

補充資料

<p>Section 25(3) – Powers of the Two Members Appointed</p> <p>1. Under Section 25(3) of the Social Workers Registration Ordinance (the Ordinance), the two Board members appointed by the Board shall refer a complaint unless they are satisfied that -</p> <p>(a) the complainant has had actual knowledge of the disciplinary offence complained of for more than 2 years immediately preceding the date on which the Registrar received the complaint; and there are no special circumstances which explain the delay in making the complaint;</p> <p>(b) the complaint is made anonymously;</p> <p>(c) the complainant cannot be identified or traced;</p> <p>(d) the social worker, the subject of the complaint, has ceased to be a RSW;</p> <p>(e) the complaint, or a complaint of a substantially similar nature, has previously been inquired into by a disciplinary committee and the Board decided that the disciplinary offence complained of was not committed;</p> <p>(f) the disciplinary offence complained of is trivial;</p> <p>(g) the complaint is frivolous or vexatious or is not made in good faith; or</p> <p>(h) for any other reason that referring the complaint to the Board is unnecessary.</p>	<p>第 25(3)條 – 兩名成員的權力</p> <p>1. 根據《社會工作者註冊條例》(《條例》)第 25(3)條，由註冊局委任的兩名註冊局成員須把投訴轉介，除非他們信納－</p> <p>(a) 投訴人在超過緊接註冊主任收到該投訴的日期前 2 年的時間已實際知悉遭投訴的違紀行為；及並沒有足以解釋投訴延誤的特殊情況；</p> <p>(b) 該投訴是以匿名方式提出的；</p> <p>(c) 不能識別該投訴人的身份或不能追查該投訴人的下落；</p> <p>(d) 遭投訴的社會工作者已不再是註冊社會工作者；</p> <p>(e) 紀律委員會以前已對該投訴或在相當程度上性質相類似的投訴進行研訊，而註冊局亦決定遭投訴的違紀行為並沒有作出；</p> <p>(f) 該等成員信納遭投訴的違紀行為屬微不足道；</p> <p>(g) 該等成員信納該投訴是瑣屑無聊或無理取鬧的或不是真誠地提出的；或</p> <p>(h) 該等成員因任何其他理由而信納將該投訴轉介註冊局是不需要的。</p>
<p>Section 26(1) – Composition of Disciplinary Committee Panel</p> <p>2. The Board shall appoint not less than 34 persons (not being members of the Board) to be members of the Disciplinary Committee Panel in accordance with the following numbers and categories:-</p> <p>(a) not less than 12 RSWs (category 1) who each hold a recognized degree in social work;</p> <p>(b) not less than 12 RSWs (category 1) who each hold a recognized diploma in social work; and</p> <p>(c) not less than 10 persons who are not RSWs.</p>	<p>第 26(1)條 – 紀律委員會備選委員小組組成</p> <p>2. 註冊局須按照以下數目及類別，委任最少 34 名（不是註冊局成員）人士為紀律委員會備選委員小組的成員－</p> <p>(a) 不少於 12 名均持有認可社會工作學位的註冊社會工作者(第 1 類)；</p> <p>(b) 不少於 12 名均持有認可社會工作文憑的註冊社會工作者(第 1 類)；及</p> <p>(c) 不少於 10 名不是註冊社會工作者的人。</p>

<p>3. The appointment of the Disciplinary Committee Panel members is gazetted. The list of the Panel members is shown on the Board's website.</p>	<p>3. 紀律委員會備選委員小組的委任已刊登憲報。備選委員小組名單詳見註冊局網頁。</p>
<p>Section 27(2) – Composition of Disciplinary Committee</p>	<p>第 27(2)條 – 紀律委員會的組成</p>
<p>4. Five members of the Disciplinary Committee Panel shall be appointed each time to form a disciplinary committee to inquire into a complaint and conduct the hearing.</p>	<p>4. 每次須由紀律委員會備選委員小組委出五名成員組成紀律委員會，就投訴召開聆訊。</p>
<p>5. The quorum at any meeting of a disciplinary committee is three. The members present may elect one of their members to preside at the meeting(s) and hearing.</p>	<p>5. 紀律委員會的任何會議的法定人數為三名成員，出席紀律委員會的會議的成員可選出其中一名成員主持會議。</p>
<p>Section 29(1) – Powers of Disciplinary Committee</p>	<p>第 29(1)條 – 紀律委員會的權力</p>
<p>6. A disciplinary committee shall have power –</p>	<p>6. 紀律委員會有權 –</p>
<p>(a) to hear, receive and examine evidence on oath;</p>	<p>(a) 聆聽、收取和審查在宣誓後作出的證供；</p>
<p>(b) to summon the RSW being complained and any witness to attend the inquiry, and to examine him as a witness or require him to produce any document or other thing in his possession, subject to all just exceptions;</p>	<p>(b) 傳召被投訴社工及任何證人出席研訊，並有權訊問該名被傳召出席作證的人，或要求他出示任何由他管有的文件或其他物件，但在符合公正原則的例外情況下，本段不適用；</p>
<p>(c) to admit or exclude the public or any member of the public from the inquiry;</p>	<p>(c) 容許或禁止所有或任何公眾人士旁聽研訊；</p>
<p>(d) to admit or exclude the press from the inquiry;</p>	<p>(d) 容許或禁止新聞界旁聽研訊；</p>
<p>(e) to award witness allowance, if necessary.</p>	<p>(e) 如有需要，判給證人合理開支。</p>
<p>Section 27(6) – Rights of Registered Social Worker Being Complained</p>	<p>第 27(6)條 – 被投訴註冊社工的權利</p>
<p>7. At an inquiry, the RSW being complained shall be entitled –</p>	<p>7. 在研訊中，被投訴社工有權 –</p>
<p>(a) to attend and hear all evidence produced at the hearing;</p>	<p>(a) 出席聆訊和聆聽在聆訊中提出的所有證據；</p>
<p>(b) to examine any witness and documents or other evidence produced at the hearing;</p>	<p>(b) 訊問證人和審查在聆訊中出示的文件或提出的其他證據；</p>
<p>(c) to call any witness and produce any documents or other evidence at the hearing; and</p>	<p>(c) 傳召證人和在聆訊中出示任何文件或提出其他證據；及</p>
<p>(d) to have legal representation.</p>	<p>(d) 有法律代表。</p>
<p>(English version prevails over Chinese version if there is any discrepancy.)</p>	<p>(如中文譯本與英文原文有分歧，以英文原文為準。)</p>