



Licensing Procedure No 4 Complaints and Appeals

1 Objective

This document outlines the procedures for the processing of complaints against licence holders, complaints against the operation of the Licensing Scheme, and appeals against the actions of the Licensing Scheme.

2 Introduction

The IRSE Licensing Scheme provides for the recording of complaints against the work and conduct of licence holders, and for action to be taken where necessary in response to such complaints.

It also provides for the consideration of complaints and appeals received from applicants, candidates, licence holders, employers and other stakeholders concerning the operation of the Licensing Scheme.

This document sets out the method of implementing these requirements.

3 Definitions

Complaint against a Licence Holder: a complaint about the work or conduct of a licence holder, falling within the scope of the Competence Assessment Checklist criteria for the category of work involved, or the general duties of a Licence holder as defined in the Licensing Standard and Procedures.

Stakeholder Complaint: a complaint by a licence applicant, licence holder, Assessing Agent, employer, or other stakeholder about the operation of the Licensing Scheme.

4 Complaints against a Licence Holder

4.1 Procedure for making a Complaint against a Licence Holder

Complaints about the work or conduct of a licence holder must fall within the scope of the licensing scheme and may come from any source.

A complaint within the scope of this Procedure shall be made in writing to the licence holder and shall give details of the dates, location and the events or conduct giving rise to the complaint, and where appropriate the licence categories and performance criteria involved, together with the contact details from which further information can be obtained. Complainants are also strongly advised to copy details of the complaint to the Licensing Registrar.

The Complainant must provide contact details with the complaint and provide evidence to substantiate the complaint to the Licensing Registrar or to the licence holder's employer

when requested, in order to enable any investigation arising from the complaint to take place.

Complaints shall be made as soon as is apparent that grounds for making a complaint exist.

Should the complainant later withdraw the complaint, the licence holder's log book entry and the Licensing Registrar's records shall be endorsed accordingly.

4.2 Actions required of the Licence Holder on Receipt of a Complaint

All complaints received by a licence holder shall be recorded in the Complaints Section of the licence holder's log book immediately on receipt, whether or not the licence holder refutes the allegation.

The licence holder shall indicate below the entry in the Complaints Section of the log book whether or not they accept that the complaint is justified.

The licence holder shall send a copy of the entry made in the Logbook, together with any evidence to refute or mitigate the complaint, to the Licensing Registrar within three working days of receipt. The licence holder shall assist the employer or client with any investigation.

If the licence holder disputes the justification for the complaint and or the result of any subsequent investigation the licence holder is responsible for attempting to resolve the dispute by appeal to the employer, client or other organisation making the complaint

The licence holder shall provide evidence of the outcome of any appeal to the Licensing Registrar within seven days of receipt.

The licence holder shall ensure that a verified record of the findings of any inquiries and appeals, relating to the complaint, are added to the record of the complaint in the log book. The licence holder shall also record any remedial actions and their results, and forward a copy to the Licensing Registrar within seven working days of completion.

Licence holders have the right to submit evidence in mitigation of the complaint for consideration by the Complaints Sub-Committee and if they still dispute the justification for the complaint following appeal to the complainant, they are entitled to an opportunity to state their case in person to the Complaints Sub-Committee.

The licence holder submitting evidence in mitigation or requesting to be heard in person shall agree to release all information relevant to the complaint to enable their case to be considered.

The full record of the complaint and any subsequent inquiries or reviews and remedial action must be kept in the Log Book and made available for review by the Competence Assessor during surveillance, or during assessment for renewal or an additional licence category.

Licence holders who fail to keep a record of any complaint made against their licensable work, or to make it available when their Logbook or extracts from their Log Book are requested, may have their licences revoked.

4.3 Responsibilities of the Licensing Registrar on Receipt of a Formal Complaint

On receipt of a complaint about a licence holder, the Licensing Registrar shall check that it falls within the scope of the licensing scheme, and, if so, ensure that a copy of the complaint is added to the licence holder's record and also to the database of complaints.

Receipt of the complaint shall be acknowledged to the complainant who shall also be sent details of the requirements of this Licensing Procedure.

Details of the complaint, together with details of the requirements of this procedure, shall be sent to the employer (if known), and the Assessing Agent(s) who assessed the affected categories and shall be copied to the licence holder.

Upon being notified of the results of any investigation and/or appeal heard by the employer, the Licensing Registrar shall ensure that the database is updated accordingly.

The Registrar shall forward the details of the complaint, and the results of any investigation by the employer, client or other interested party, and/or appeal, together with any evidence submitted in mitigation by the licence holder and any request for a personal hearing to the Complaints Sub-Committee for review.

The Licensing Registrar shall notify the parties involved in the complaint of the decision of Licensing Committee following the review of the complaint, and ensure that any changes to the licence holder's licence are immediately implemented.

4.4 Responsibilities of the Complaints Sub Committee

All complaints shall be reviewed by the Complaints Sub Committee of the Licensing Committee to verify that the correct procedures have been carried out, to establish whether there is any evidence of the complaint having its root cause in the assessment process and to recommend what, if any, further action is required.

The Complaints Sub-Committee shall consider the results of any investigations carried out by the complainant and any evidence submitted in mitigation by the licence holder, including the result of any appeal to the employer or client. The licence holder shall have the right to be heard in person.

If necessary the Sub-Committee shall request the complainant and/or the licence holder to supply additional information or to carry out further investigations into the circumstances of the complaint. In deciding what, if any, further action is required the Sub-Committee shall consider any other complaints against the licence holder concerned and any similar complaints against other licence holders.

The Sub-Committee shall report its findings and any recommendations for further action to the Licensing Committee. The Licensing Committee may delegate to the Sub-Committee the power to summarily revoke or suspend a licence or licence categories where safety could be compromised if immediate action was not taken.

If any member of the Sub-Committee has any connection with the complainant or the licence holder against whom the complaint has been made they shall declare their interest.

If the connection is such that it might prejudice the member's ability to objectively review the complaint, they shall not participate in the review of that complaint.

4.5 Responsibilities of the Licensing Committee

The Licensing Committee shall review the findings, recommendations and any summary action of the Sub-Committee. Licensing Committee may confirm or vary the actions and recommendations of the Sub-Committee or require such other action as they see fit.

Only those members of the Licensing Committee who are independent of the parties involved in the complaint shall take part in the Licensing Committee's review. Members who have any connection with the parties involved in the complaint shall not seek to influence the Committee's decision

Where appropriate the Licensing Committee shall instruct the Licensing Registrar to revoke the licence, or a particular category of the licence.

4.6 Revocation or Suspension of a Licence, or Licence Category

Where the circumstances are considered to justify such action the Licensing Committee, or its Complaints Sub-Committee may revoke a licence, or specific categories of a licence, or may suspend a licence or licence categories for a period or until specific remedial action has been completed.

Where a licence category is revoked or suspended, any other licence category for which the revoked licence category is a pre-requisite shall be automatically suspended until the pre-requisite category is regained.

The Licensing Committee may also set out the mitigating measures or other conditions that must be fulfilled before the licence holder will be accepted for assessment with a view to the re-issue of the revoked licence or licence category(s).

4.7 Renewal of a Licence following a Complaint

Licence holders who have received complaints are not barred from renewing their licences, or acquiring additional categories, but the Competence Assessor shall be required to confirm that the licence holder has demonstrated an ability to consistently achieve the required level of performance, paying particular attention to the activities giving rise to the complaint, and any remedial action taken, before recommending the renewal of the licence.

The licence holder shall therefore be required to provide the completed record of the complaint and a verified record of work experience that demonstrates consistent achievement of the required level of performance for an appropriate period of time since the date of the complaint in support of their application for re-assessment.

4.8 Reissue of a Revoked Licence or Licence Category

A licence applicant who has had a licence, or licence category, revoked shall not be eligible to apply for the reissue of that licence, or licence category, until such time as all the conditions, prescribed by the Licensing Committee for the issue of a new licence, or licence category, have been met.

Where the application is for a licence or licence category that has previously been revoked, the applicant shall be required to provide evidence that:

- any time bar on the applicant holding a licence or licence category has expired
- any prescribed course of remedial action has been successfully completed
- the applicant has consistently achieved the required level of performance
- the applicant has an attitude that is compatible with undertaking licensable work.

In all cases the assessment for the issue of a previously revoked licence or licence category shall be a full assessment as though it were an initial application for a licence.

4.9 Complaint withdrawn or not substantiated

In the event of a complaint being withdrawn or found not to be substantiated on investigation, the licence holder and the Registrar shall be informed immediately in writing. In such cases, the log book entry and the Licensing Registrar's records shall be endorsed accordingly.

4.10 Removal of a Complaint from a Logbook

Complaints shall only be removed from a log book under exceptional circumstances and after consideration by the Licensing Committee.

Licensing Committee shall only authorise the removal of a complaint when they are satisfied that:

- any conditions imposed by them at the time the complaint was made have been fully met;
- the licence holder has demonstrated by a verified process of assessment that performance and conduct in those activities relevant to the complaint now consistently achieve the required standard;
- no safety risk would be incurred if the complaint were removed.
- there are good reasons for removing the entry which could not be met by a suitable endorsement to the log-book entry

5. Stakeholder Complaints against the operation of the Licensing Scheme

Any stakeholder who has a complaint against the operation of the licensing scheme has the right to lodge a complaint. Complaints shall be made in writing to the Licensing Registrar; setting out the grounds for complaint and including sufficient detail to enable the matter to be fully considered.

On receipt of a complaint from a stakeholder against the operation of the Licensing Scheme the Registrar shall pass the complaint to the Chairman of the Licensing Committee who shall arrange for it to be investigated.

Where the complaint is against the action, or inaction, of an Assessing Agent the Assessing Agency Manager shall be asked to verify the facts and provide an explanation.

On completion of the necessary investigations the Complaint shall be brought to the attention of the Licensing Committee who shall decide what, if any, action is to be taken.

Following consideration by the Licensing Committee, the Registrar shall respond to the complainant informing them whether or not the complaint is upheld and what, if any, action is to be taken.

6 Appeals

6.1 Eligibility

6.1.1 Licence holders

Licence holders or licence applicants have the right of appeal to the Licensing Committee when they consider they have been unfairly treated by:

- the refusal to issue a licence or licence category by the Licensing Committee
- the revocation of a licence or licence category by the Licensing Committee
- the suspension of a licence category by the Licensing Committee,
- the action or inaction of an assessing agent

The Licensing Committee will only consider an appeal by a licence holder against the actions of an Assessing Agent, after that organisation's own appeal procedures have been exhausted.

6.1.2 Other stakeholders

Assessing Agents, employers and other stakeholders in the licensing scheme have the right to appeal where they consider that they have an unresolved grievance against the operation of the licensing scheme or against a decision of the licensing scheme or its employees.

6.2 Appeal Process

All appeals shall be submitted in writing to the Licensing Registrar setting out the grounds on which the appeal is based. The Licensing Registrar shall pass the appeal to the Chairman of the Licensing Committee.

If the grounds for appeal are accepted, the Chairman of the Licensing Committee shall appoint a panel of not less than three past or present members of the Licensing Committee, who are independent of all parties to the appeal, to hear the appeal; and set a date for the appeal to be heard. If the grounds for appeal are not accepted the appellant shall be advised in writing.

The appellant shall be notified of the date of the appeal hearing and advised that they have the right to appear in person in front of the Appeal Panel and to submit any other written evidence in support of their appeal. They shall also be advised of the composition of the Appeal Panel and of their right to object to any of the proposed members whom they do not consider to be sufficiently independent.

If such an objection is upheld alternative members shall be nominated to replace those whose independence was in question.

The Appeal Panel may request further information from any of the other parties involved and may invite other parties to appear in front of the Panel.

On completion of the Appeal Hearing the chairman of the Appeal Panel shall report their findings to the Licensing Committee.

The Licensing Committee shall review the findings and recommendations of the Appeal Panel, and decide what action, if any, to take. Only those members of the Licensing Committee who are independent of the parties involved in the appeal shall take part in the Licensing Committee's review.

The Licensing Registrar shall notify the parties involved in the appeal of the confirmed result of the Appeal Panel.

Where the Appeal is against the revocation or suspension of a licence or licence category, the confirmed result of the Appeal Panel shall be recorded in the Record of Complaints in the licence holder's logbook.

6.3 Appeals against the actions of the Licensing Committee

Where the appeal is against the actions or decisions of the Licensing Committee, or one of its Sub-committees the appeal shall be passed to the Chief Executive of the Institution for the attention of the Institution Council.

The procedure for the appeal shall be the same as for an appeal to the Licensing Committee except that the IRSE Chief Executive shall appoint the Appeal Panel from past or present Members of Council who are independent of all parties to the appeal, and the findings and recommendations of the Appeal Panel shall be considered by the Institution Council who shall decide what if any action shall be taken.

6.4 Appeal to the Engineering Council

For so long as the Institution is a Nominated Body of the Engineering Council any person whose grievance is not resolved by appeal to the Institution Council may appeal to the Engineering Council in accordance with Article 17.5 of the Institution's Articles of Association.

Appendix A

Guidance for Employers


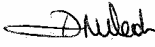

When an employer has, or receives, a complaint about the work or conduct of an employee who holds an IRSE Licence, falling within the scope of the licensing scheme, the employer is expected to immediately advise the employee in writing giving full details of the events and circumstances giving rise to the complaint (as required by Section 4.1 above). Employers are also requested to advise the Licensing Registrar as soon as possible, giving details of the complaint.

Employers are expected to carry out investigations necessary to establish the full facts surrounding complaints. The employer should inform the Registrar if it is intended to carry out an investigation, preferably when reporting the complaint. At the conclusion of such investigations, the employer is expected to advise both the Licensing Registrar and the licence holder in writing of the details of the investigation and whether or not the complaint has been substantiated.

Employers are expected to use their own procedures to suspend an employee from carrying out licensable work where they consider this action is justified by the facts. Employers may also make a recommendation to the Licensing Registrar that consideration be given to revoking the licence.

Employers are expected to have an appeals procedure under which licence holders who consider that they have been unfairly treated by the recording of a complaint against their licensable work can appeal. The results of any appeal should be added to the record of the formal complaint, and the record counter-signed by the person hearing the appeal.

AUTHORISATION

 Prepared by Philip Wiltshire 26 /01/06	Reviewed and Agreed by Licensing Committee Minute 7.1at meeting held on 26/01/06
 Authorised by David Weedon 26/01/06	 Issued by Karen Gould 13/02/06