Licensing Procedure No 4
Complaints and Appeals

1 Scope

This document sets out the processes for dealing with complaints about the work or conduct of holders of IRSE Licences; dealing with complaints against the operation of the IRSE Licensing Scheme; and dealing with appeals against the decisions of the Licensing Committee.

2 Introduction

The IRSE Licensing Scheme provides for the investigation of complaints against the work and conduct of licence holders, and for action to be taken where necessary in response to information regarding the unsatisfactory work or conduct of licence holders within the scope of the Licensing Scheme.

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.

3 Definitions

Complaint against a Licence Holder: an allegation of breach of competence or conduct by an IRSE Licence Holder, falling within the scope of the performance requirements as defined in the occupational standard for the category of work involved; or the general duties of a Licence Holder as defined in the Licensing Standard and Procedures.

Revocation: The withdrawal of a licence, or licence category, as a result of a complaint considered by the Complaints Sub-Committee to be sufficiently severe as to render the holder unfit to retain that licence or category.

Stakeholder Complaint: a grievance by a Licence Applicant, Licence Holder, Assessing Agent, Employer, or other stakeholder about the operation of the Licensing Scheme.

Suspension: withdrawal of the validity of a licence or category pending investigation of a complaint or completion of some action required of the licence holder.

4 Prejudicial Interests

If any member of the Licensing Committee or its Sub-Committees has any connection with any of the parties to a complaint or grievance, they shall declare their interest before the matter is discussed, or as soon as the connection becomes apparent.
If the connection is such that it might prejudice the member’s ability to objectively review the complaint, they shall not participate in any discussion of that complaint.

No person who has any connection with any of the parties to a complaint shall sit on any review panel or appeal panel.

5 Confidentiality

All information pertaining to the complaint shall be kept confidential and only communicated to the extent that is necessary for the full and fair consideration of the complaint; and the implementation of any necessary corrective action.

6 Record Keeping

Accurate and traceable records shall be kept of each complaint, including: all evidence submitted both in support of the complaint and in refutation or mitigation of the complaint; minutes of all meetings of committees, sub-committees and panels considering the complaint and any appeals; and full details of all decisions relating to the complaint.

The Registrar shall maintain a log of complaints against individuals and against the Scheme.

7 Complaints against a Licence Holder

7.1 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, e.g. infrastructure manager, employer, client, fellow employee.

The complaint shall be made in writing to the Licensing Scheme, normally via the Licensing Scheme web-site, and shall contain at least sufficient information to enable an initial evaluation to be made. The Licence Holder shall also be advised, normally within 10 working days, by the Registrar and where possible by the complainant, that a complaint is being made, and of its nature.

7.2 On receipt of a complaint, or if the Licensing Committee becomes aware of circumstances suggesting a breach of competence or conduct, the Registrar shall, normally within 10 working days, record the facts and pass them to the Complaints Sub-Committee for consideration; and in addition shall provide the Licence Holder with the wording of the complaint to be entered into their log book.

7.3 Complaints shall be recorded and, where possible, progressed even though the licence, or category, has expired.

If a complaint is raised against a licence holder whose contact details are not known, and whom it is not possible to contact, the Registrar shall immediately suspend the licence; and an entry shall be made on the licensing database: complaint pending - licence suspended. When contact is re-established with the licence holder the complaint shall be processed and the suspension may be lifted where appropriate.

7.4 The Complaints Sub-Committee shall, normally within 20 working days, consider whether the complaint is supported by the known facts and whether it is necessary to obtain further information.
They shall also establish whether there is any evidence of the complaint having its root cause in the assessment process and recommend what, if any, further action is required.

7.5 The Complaints Sub-Committee shall decide, if necessary in conjunction with Licensing Committee:
- on the basis of the evidence submitted, whether to uphold or dismiss the complaint;
- whether the severity of the complaint requires the licence or category to be revoked; and shall
- confirm the adequacy of any proposed remedial actions and if necessary require additional actions.

If the recommendation is supported the Registrar shall be so informed.

7.6 If the Complaints Sub-Committee considers that further information is required in order to reach a decision, this shall be requested, normally within 10 working days, by the Licensing Registrar from the appropriate organisation responsible for the work in the course of which the complaint arose.

7.7 If the final conclusion of the Complaints Sub-Committee is that the complaint is not substantiated, or that the nature of the occurrence does not warrant formal action, the Registrar shall, normally within 10 working days, record the decision within the confidential licensing records but no reference shall be made to the complaint in any public record; and the entry may then be removed from the Licence Holder's log book.

7.8 If the final conclusion of the Complaints Sub-committee, which shall normally be reached within 20 working days of the receipt of any further information requested, is that the complaint is substantiated the Registrar shall formally endorse the records; advise the licence holder, the licence holder's employer and/or other appropriate body; and bring the decision to the attention of Licensing Committee for noting.

The Registrar shall, normally within 10 working days, send the Licence Holder the wording to be recorded on the complaints record in their log book and request a signed copy of the entry.

The Licence Holder shall acknowledge receipt, normally within 10 working days, and advise the Registrar if they wish to appeal.

The Registrar shall also record on the licence validation database that an endorsement exists.

7.9 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.
8 Renewal of a Licence following an Endorsement

Licence Holders who have received a complaint are not barred from renewing their licences, or acquiring additional categories, but in such cases 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 endorsement, 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; evidence that any prescribed course of remedial action has been successfully completed; 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.

9 Reissue of a Revoked Licence or Licence Category and Issue of a New 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 for the reissue of the licence, or licence category, have been met.

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.

A licence applicant who has had a licence or licence category revoked, and has had specific conditions laid down to be met prior to the issue of any other licence categories, shall have met those conditions prior to making application for such categories, and the applicant shall be required to provide evidence to the assessor as to how the conditions have been fulfilled.

When a revoked licence is reissued, the complaint shall remain on the record and in the log book, subject to the conditions set out in Section 10.

10 Removal of a Complaint from the Record

Except in the most serious and exceptional cases, complaints shall normally be time limited to five years and at the end of that time, and provided that any pre-conditions have been met, the endorsement shall be removed from all publically accessible records, and may be removed from the log book.

11. 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 make that complaint. Complaints shall be set out 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 details of 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.

12 Appeals

12.1 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 Licensing Scheme, either following assessment for a licence or as a result of a complaint made against them.

Leave to appeal against a decision of the Licensing Committee is not automatic and sufficient grounds, e.g. new evidence, apparent injustice, etc. must be identified.

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.

12.2 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 complaint against the operation of the Licensing Scheme or against a decision of the Licensing Scheme or its employees.

12.3 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 not accepted the appellant shall be advised in writing.

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 and have not taken part in any previous hearing or discussion relating to the complaint, to hear the appeal; and set a date for the appeal to be heard. Consideration shall be given to including a lay member, e.g. from a different engineering discipline, on the appeal panel.

The appellant shall be notified of the date of the appeal hearing and advised that he/she has 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. All parties shall have access to all information before the Appeal Panel.

All parties appearing in front of the panel have the right to be accompanied by an adviser, who may speak on their behalf.

On completion of the Appeal Hearing the Chairman of the Appeal Panel shall report their findings to the Licensing Committee for noting and record.

The Licensing Registrar shall notify the parties involved in the appeal of the decision of the Appeal Panel. The result of the Appeal Panel shall be recorded in the Record of Complaints in the Licence Holder’s logbook; unless the complaint is completely dismissed, in which case all entries relating to that complaint may be removed from the log book.

Should the Licensing Committee not accept the findings of the Appeal Panel the facts shall be referred to the Chief Executive of the Institution for the attention of the Institution Council.

12.4 Appeals against Appeal Decisions of the Licensing Committee

An appeal against the decision of the Licensing Committee, in response to an appeal to it, shall be passed to the Chief Executive of the Institution for the attention of the Institution Council.

Appeals shall only be passed to the Chief Executive after the process of appeal to the Licensing Committee set out in Section 12.3 has been exhausted.

The procedure for the appeal shall be similar to 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 have taken no part in any previous deliberation of the case; and the findings and decisions of the Appeal Panel shall be reported to the Institution Council.