



Gas Procedure 3.5

Disciplinary Procedure

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Contents

Contents.....	2
1. Definitions:.....	3
2. Liability of the RGI to Disciplinary Action.....	4
3. Duties of the RGI.....	5
4. Processing of Complaints by the GSSB.....	6
5. Investigation of a Complaint by the Complaints Officer.....	6
6. Consideration of the report of the complaints officer by the Disciplinary Committee.....	7
7. Adjudication of the complaint by the Disciplinary Committee.....	8
8. Findings and orders of the Disciplinary Committee.....	9
9. Appeals to the Appeals Panel.....	10
10. Appeal to the Appeals Committee of the Commission.....	12
10.1.....	12
10.2.....	12
11. Application of disciplinary sanctions by the GSSB.....	12
11.1.....	12
12. Associated Documentation:.....	12

1. Definitions:

Appeal Committee of the Commission	The Committee that has been appointed to hear an appeal in accordance with Section 9F(7)(b) of the Energy (Miscellaneous Provisions) Act 2006 (and any amendment thereto);
Appeals Officer	An officer who has been appointed under Section 9F(8)(a) of the Energy (Miscellaneous Provisions) Act 2006 (and any amendment thereto) to prepare a report to be furnished to the Appeal Committee of the Commission;
Appeals Panel	The Panel appointed by the GSSB further to the direction of the Commission, the purpose of which is to hear an appeal of the Order of the Disciplinary Committee by the RGI subject to that Order;
Complainant	A person who makes a Complaint to the GSSB concerning an RGI and who may be an RGI Inspector. The Complainant, if they are an Inspector, shall not be appointed Complaints Officer with respect to any Complaint that they make to the GSSB or as may otherwise be provided for in Section D in the Criteria Document.
Complaint	Any complaint, allegation, expression of concern, matter or event touching or apparently touching upon the conduct (whether by act or omission), behaviour, performance of any RGI, in respect of any matter relating to safety as set out in Clause 3, Section D of the Criteria Document or a contravention to RGI Scheme's Rules of Registration of whether brought to the attention of the GSSB by a Complainant or otherwise coming to the attention of the GSSB or as may otherwise be provided for in Section D of the Criteria Document.
Complaints Officer	The person appointed by RGI to investigate any Complaint or as may otherwise be provided for in Section D in the Criteria Document.
Criteria Document	The Criteria Document which is specified and published by the Commission pursuant to the Energy (Miscellaneous Provisions) Act 2006 (and any amendment thereto) and may be amended from time to time.
CRU or "the Commission"	means the Commission for Regulation of Utilities as established further to the 1999 Act.

Disciplinary Body	The Complaints Officer, the Disciplinary Committee, the Appeals Panel, and the Appeals Committee of the Commission or any of them
Disciplinary Committee	The process and procedures applied by the GSSB and/or the Commission pursuant to Section D of the Criteria Document
GSSB / Body	means Safe Energy Ireland appointed by the CRU, pursuant the act to act as the Gas Safety Supervisory Body to operate the RGI Scheme.
Inspector	A person appointed by the GSSB (including, where relevant, an Authorised Officer) or the Complaints Officer to inspect the work carried out by an RGI and to prepare and furnish a report for the Complaints Officer
Order of the Disciplinary Committee	Any order of a Disciplinary Body made pursuant to this Disciplinary Process
RGI(s)	Registered Gas Installer registered with the scheme.
Registered Gas Installer Scheme/ RGI Scheme	means the gas statutory regulatory scheme

2. Liability of the RGI to Disciplinary Action

2.1 Any Registered Gas Installer ("RGI") shall be liable to disciplinary action(s) in any of the following circumstances:

(i) Furnishing incorrect, misleading or fraudulent information or documentation in an Application for Registration to the GSSB or at any subsequent renewal application.

(ii) Any material breach of the RGI Scheme Rules of Registration or any material breach of CRU's Criteria Document, including, but not limited to, the following:

(a) any failure to carry out work in compliance with the requirements of the CRU's Criteria Document and specifically the industry standards referred to therein;

(b) any failure to respond adequately to or at all to correspondence or other communications from, the GSSB, the Commission, an Inspector, a Complaints Officer or from any Disciplinary Body, or failure to cooperate fully with any inquiry or investigation being conducted by or on behalf of the RGI Scheme;

(c) providing a Completion Certificate in respect of Gas Work that has not been completed by the RGI (except in circumstances so permitted by the GSSB) and

(d) failure to meet the Inspection criteria as outlined in the Criteria Document Section B.

(iii) Any other circumstances that may be provided for in Section D of the Criteria Document.

- 2.2 If, following a Complaint being made to the GSSB, an RGI resigns from the scheme or their registration otherwise expires prior to the determination of the Complaint/ Disciplinary Process, any such resignation shall not be considered effective until the conclusion of any Disciplinary Process and the GSSB shall be entitled to pursue the Disciplinary Process (to which the RGI would be subject) in absentia. The process of investigation, and any subsequent steps arising from that, as described below, shall be adhered to.
- 2.3 The GSSB shall be entitled, where it considers it appropriate in the interests of safety, to suspend the RGI's entitlement to undertake Gas Works, where it undertakes a Disciplinary Process against an RGI.
- 2.4 In particular, the GSSB may, at its discretion, order that the RGI's right to undertake Gas Works is withdrawn if and when a breach of the Criteria Document or the RGI Scheme's Rules of Registration occurs. This includes, but is not limited to;
- (i) failure by an RGI to provide work for inspection in line with the requirements of the Criteria Document and the Body's Audit and
 - (ii) non-compliance with the Inspection and Audit Procedure;
 - (iii) failure by an RGI to maintain public liability and/or employer liability insurance; and
 - (iv) failure by an RGI to pay the RGI Scheme annual subscription fee in line with the requirements of the RGI Scheme's Rules of Registration.

In such cases, suspension will remain until the RGI is compliant with the RGI Scheme's Rules of Registration and the Criteria Document. Should an RGI fail to comply with the RGI Scheme's Rules of Registration and the Criteria Document within the timeframe set out by the requirements of the RGI Scheme Suspension Procedure, the GSSB may take further disciplinary action including termination of registration.

3. Duties of the RGI

- 3.1 Any RGI who is the subject of a Disciplinary Process must cooperate fully with every phase of the Disciplinary Process. Every RGI (including any RGI who is not subject to the Disciplinary Process) must provide such information, explanations, documents (electronic or otherwise) and other records as shall be required during every phase of the Disciplinary Process.

3.2 Where an order is made pursuant to the Disciplinary Process for the imposition of the sanction of suspension or revocation of the registration of the RGI, they (in the case of a company the nominated person) shall return to the GSSB all unused Completion Certificates, all documentation pertaining to the RGI Scheme's Brand and other such material as requested by the GSSB. The RGI shall comply with the requirements imposed by the Disciplinary Body as a consequence of the suspension or revocation or other such disciplinary action.

- 3.3 An RGI shall not purport to act as an RGI while registration has been suspended or revoked.

4. Processing of Complaints by the GSSB

- 4.1 The GSSB shall appoint from time to time:
- (i) a Complaints Officer or Complaints Officers;
 - (ii) a Disciplinary Committee; and
 - (iii) an Appeals Panel.

in order to carry out the duties and procedures as laid out within Section D of the Criteria Document. An employee of the GSSB may be appointed for such purposes. However, no person shall be a member of the Disciplinary Committee and the Appeals Panel at the same time.

- 4.2 The GSSB may, where it considers it appropriate, attempt to resolve any Complaint in a way not involving disciplinary action under this procedure.
- 4.3 If the Complaint has not been resolved as outlined in 3.2 above, the GSSB shall remit the Complaint to the Complaints Officer.
- 4.4 The GSSB may, if it deems it necessary in the interest of safety, order that the RGI's right to undertake gas works is withdrawn, pending the resolution of the Complaint. In particular, the GSSB may, at its discretion, order that the RGI's right to undertake gas works is automatically withdrawn if and when a breach of the Criteria Document or the RGI Scheme's Rules of Registration occurs. This includes, but is not limited to;
- (i) Failure by an RGI to provide work for inspection in line with the requirements of the Criteria Document and the RGI Scheme's Audit and of Inspection Procedure;
 - (ii) Failure by an RGI to maintain public liability and/or employer liability insurance;
 - (iii) Failure by an RGI to pay the RGI Scheme's annual subscription fee in line with the requirements of the RGI Scheme's Rules of Registration.
- 4.5 In such cases suspension will remain until the RGI is compliant with the RGI Scheme's Rules of Registration and the Criteria Document or until such time as the GSSB deems it appropriate to take further Disciplinary action.

5. Investigation of a Complaint by the Complaints Officer

- 5.1 When a Complaint has been conveyed to the Complaints Officer, they shall carry out an initial inquiry to establish if the Complaint is one which is legitimate, non-vexatious and within the remit of the RGI Scheme to deal with and, if so, shall furthermore establish if the Complaint involves a matter specified relating to Clause 3, Section D of the CRU Criteria Document. If so, then it shall be dealt with as per the procedure below.
- 5.2 The Complaints Officer shall notify the RGI of the complaint in writing and shall confirm that the complaint is being dealt with pursuant to the RGI Scheme's Disciplinary Procedure.
- 5.3 The Complaints Officer shall be obliged to investigate the complaint and to provide a factual report within the period as specified by the GSSB.

- 5.4 In preparing such a report, the Complaints Officer shall have the power to engage any technical or special expert (including an Inspector and/or Authorised Officer of the GSSB) to assist or to give any advice to them, to procure legal advice or assistance or to authorise any such party to do all such things as they may consider reasonable and necessary/conductive to carrying out their inspection and preparing their report ("Complaint Report").
- 5.5 The RGI is required to comply with any reasonable requests of the Complaints Officer, and any such other party as may be engaged in assisting the Complaints Officer, in the preparation of their Complaint Report. This may include attendance at the site subject to inspection, if deemed appropriate.
- 5.6 Where applicable, an Inspector shall indicate in their Complaint Report whether or not, in their opinion, the works carried out by the RGI meet the standards and requirements of I.S.813 and/or I.S. EN 1949 and any other relevant industry standard referenced therein and to the extent that they do not and where, in their opinion, the deficiencies lie.
- 5.7 The Complaints Officer shall furnish the RGI with a copy of the Complaint Report by registered post within 10 working days of its issue. The RGI will then have the opportunity (but will not be obliged) to provide a written response to the Complaints Officer within 10 working days from receipt of the Complaint Report.
- 5.8 The Complaints Officer shall, having reviewed all relevant information and submissions pertaining to the investigation, decide whether or not there is a case to be answered by the RGI.
- 5.9 The Complaints Officer shall present a final Complaint Report, setting out the facts and details of their investigation and their recommendation on whether or not there is a case to be answered by the RGI to the Disciplinary Committee and other such recommendations they make.
- 5.10 The Complaints Officer may, if they deem it necessary in the interest of safety, make a recommendation to withdraw the RGI's right to undertake Gas Works pending the conclusion of the Complaints/ Disciplinary Process.

6. Consideration of the report of the complaints officer by the Disciplinary Committee

- 6.1 The Disciplinary Committee shall consider the Complaint Report of the Complaints Officer. Where the Disciplinary Committee is of the opinion that there is no case to be answered by the RGI, it shall advise (in writing) the Complainant and the RGI of its decision which shall, in such circumstances be final.
- 6.2 Where the Disciplinary Committee finds that there is a case to be answered by the RGI, it shall progress this matter in accordance with this procedure. In this regard, the Disciplinary Committee may determine that all, or part, of the matter in the Complaint Report are to be progressed.

- 6.3 The Disciplinary Committee may, if it deems it necessary in the interest of safety, order that the RGI's entitlement to undertake Gas Works is withdrawn pending the conclusion of the investigation.
- 6.4 The Disciplinary Committee on deciding to adjudicate on the Complaint shall inform the GSSB that the Disciplinary Process has been commenced against the RGI in question.

7. Adjudication of the complaint by the Disciplinary Committee

- 7.1 Where the Disciplinary Committee decides to adjudicate on all or part of any Complaint referred to it, it shall send to the RGI the following:
- (i) a copy of any written communication received by the Disciplinary Committee in respect of the Complaint;
 - (ii) a summary of the material that was considered by the Complaints Officer and/or Inspector in preparing the Complaint Report;
 - (iii) a copy of any written representation made by the Complainant;
 - (iv) a copy of the Complaint Report prepared by the Complaints Officer;
 - (v) a copy of any written representations made by the RGI; and
 - (vi) a copy of any other documentation which was provided, and which the Disciplinary Committee considered relevant to the decision that he made.
- 7.2 In adjudicating on all or part of the Complaint referred to it, the Disciplinary Committee shall hold a hearing. As soon as practicable after the Complaint is remitted to it, the Disciplinary Committee shall notify the RGI, the Complaints Officer and any Complainant of the time and place fixed for the hearing. The Disciplinary Committee shall give the RGI the opportunity of:
- (i) attending and being heard at the hearing;
 - (ii) hearing the evidence against them;
 - (iii) providing for legal, trade or other representation at the hearing
 - (iv) questioning, through the chairperson of the Disciplinary Committee, witnesses called by the person or persons presenting and prosecuting the Complaint;
 - (v) add to the documentary evidence;
 - (v) calling witnesses to give evidence on their behalf; and
 - (vi) making such submissions as they wish to the Disciplinary Committee.
- 7.3 The Disciplinary Committee shall give the person or persons presenting and prosecuting the Complaint on behalf of the RGI Scheme the opportunity of:
- (i) attending and being heard at the hearing
 - (ii) add to the documentary evidence;
 - (iii) calling witnesses (including the Complainant or Inspector) to give evidence; and,
 - (iv) questioning witnesses, called by the RGI, through the Chairperson of the Hearing;
 - (v) making such submissions as they wish to the Disciplinary Committee
- 7.4 The Complainant, as may be determined by the Disciplinary Committee, may be requested to attend the hearing and participate in the hearing as a witness but shall not have any right to otherwise participate in the hearing.

- 7.5 At least 14 calendar days in advance of the hearing, the RGI will be furnished with a copy of any documents or materials the persons presenting and prosecuting the Complaint intend to rely on and/ or a list of any witnesses to be called at the hearing.
- 7.6 If any party seeks to rely on expert evidence, the report by such expert must be served on the other party at least 14 calendar days in advance of the hearing.
- 7.7 If the RGI does not attend the hearing on the appointed day and time, the Disciplinary Committee may in its absolute discretion:(i) sit and hear the Complaint provided it is satisfied that the notice of the hearing was given to the RGI; or
(ii) adjourn the hearing to such other date, as it may in its absolute discretion, decide,
and the Disciplinary Committee shall give to the RGI notice of its decision.
- 7.8 The GSSB, in disciplining the RGI, may appoint legal representation to present the Complaint before the Disciplinary Committee as well as any appeal arising from the decision.
- 7.9 The Disciplinary Committee shall adjudicate upon the Complaint fairly and impartially and in accordance with the requirements of natural justice. A decision by the Disciplinary Committee shall be by majority vote.
- 7.10 Membership of the Disciplinary Committee shall comprise at least 3 members and shall always comprise an odd number in order to allow for a majority decision to be made. In the interest of transparency, the membership of the Disciplinary Committee must contain one independent member who is not a permanent employee of the GSSB.

8. Findings and orders of the Disciplinary Committee

- 8.1 The Disciplinary Committee shall issue a written decision setting out its findings and setting out any Order to be made pursuant to its determination in respect of the Complaint.
- 8.2 The standard of proof applicable shall be proof “on the balance of probability”. If the Disciplinary Committee makes a finding that the Complaint has been proved or upheld in whole or in part, it may make any one or more of the following Orders as it considers appropriate:
- (i) that the RGI be reprimanded by way of an oral warning;
 - (ii) that the RGI be reprimanded by way of a written warning;
 - (iii) that the RGI be required to give a written undertaking to RGI on the terms set out by the Disciplinary Committee;
 - (iv) requirement that the RGI undergo a formal competency assessment or attend specified courses;
 - (v) requirement that the RGI be subject to a higher frequency of inspection and/or fees and charges;
 - (vi) suspension of the RGI’s registration for a defined period and the terms upon which the suspension shall be lifted;
 - (vii) revocation of the RGI’s registration with RGI and/or,
 - (viii) any other Order that the Disciplinary Committee may be entitled to make under the Criteria Document.

- 8.3 Any other such Order that may be made upon such terms and conditions as decided by the Disciplinary Committee in its absolute discretion.
- 8.4 Such Order shall include specification by the Disciplinary Committee with respect to any further sanction or sanctions which may be imposed further to the failure of the RGI to comply with the order and its terms and conditions.
- 8.5 A copy of the Order shall be forwarded to the RGI by registered post as soon as practicable.
- 8.6 In the case where the Order of the Disciplinary Committee is to suspend or revoke the registration of the RGI, that Order shall be required to have immediate effect and the Disciplinary Committee shall immediately notify the Commission of its Order.
- 8.7 The GSSB shall be obliged to implement and enforce the Order of the Disciplinary Committee in accordance with the provisions of such an Order.

9. Appeals to the Appeals Panel

- 9.1 The RGI may appeal the Order of the Disciplinary Committee to the Appeals Panel on the following grounds only:
 - (i) the finding on which the Order was based was materially wrong;
 - (ii) the Order imposed a sanction that was excessive;
 - (iii) the Order should be set aside because of a serious procedural or other irregularity in the hearing before the Disciplinary Committee; or
 - (iv) for any other ground that may be provided for under the Criteria Document
- 9.2 The Order of the Disciplinary Committee shall stand and be effective pending the outcome of the appeal.
- 9.3 If the RGI wishes to appeal an Order of a Disciplinary Committee, it must do so, to the Appeals Panel, within 28 calendar days of the date of the decision of the Disciplinary Committee being notified to the RGI.
- 9.4 Any such notice of appeal shall state the grounds of appeal and enclose the submissions of the RGI (if any) together with a copy of all documents to be relied upon by the RGI including expert reports and witness statements.
- 9.5 The Appeals Panel shall advise the RGI in their preferred method of contact of the time, date and venue for the Appeal Hearing. If no new evidence is presented, the date for the Appeal Hearing must be within 14 calendar days of receipt of the notice of appeal. If new evidence is presented the date for the Appeal Hearing must be within 28 calendar days of receipt of the notice of appeal.
- 9.6 No former member of the Disciplinary Committee or an Inspector who has been concerned with the Complaint, which is the subject of the Appeal, shall be eligible for appointment to the Appeals Panel.
- 9.7 Membership of the Appeals Panel shall comprise of at least 3 members and shall always comprise an odd number in order to allow for a majority decision to be made. In the interest of transparency, the membership of the Appeals Panel must contain one independent member who is not a permanent employee of the GSSB

- 9.8 Where, in the grounds of appeal, the RGI is seeking a re-hearing of the matter, that re-hearing should be conducted and heard by the Appeals Panel, in which case the Complaints Officer or Inspector shall first present the case to the Appeals Panel with the same burden and standard of proof as applied before the Disciplinary Committee and the RGI may then present its case.
- 9.9 If the grounds of appeal are in respect of procedural irregularities only, the appeal shall be heard in such manner as the Appeals Panel shall in its absolute discretion decide.
- 9.10 The Appeals Panel may, in its absolute discretion, admit any evidence not presented at the hearing before the Disciplinary Committee. If either party wishes to introduce any new evidence not presented at the hearing before the Disciplinary Committee they shall give the other party notice, including new evidence, at least 14 calendar days prior to the date set for the hearing of the appeal.
- 9.10 The Appeals Panel shall give the RGI the opportunity of:
- (i) attending and being heard at the hearing of the Appeal;
 - (ii) if they so desire, being represented legally or otherwise before the Appeals Panel;
 - (iii) hearing evidence put forward by or on behalf of the Complaints Officer/RGI;
 - (iv) cross examining witnesses, through the Chair, called by the Complaints Officer;
 - (v) adding to the documentary evidence;
 - (vi) calling witnesses to give evidence on their behalf; and
 - (vii) make such submissions as they wish to the Appeals Panel.
- 9.11 The Appeals Panel shall give the person or persons representing the Disciplinary Committee the opportunity of:
- (i) attending and being heard at the hearing of the Appeal;
 - (ii) adding to the documentary evidence;
 - (iii) calling witnesses (including, if desired, calling any Complainant to give evidence);
 - (iv) questioning witnesses, through the Chair, called by the RGI; and
 - (v) making such submissions as they wish to the Appeals Panel.
- 9.12 The Appeals Panel may invite the Complainant to attend the hearing of the Appeal as an observer. The Complainant shall have no right to participate, other than if called as a witness.
- 9.13 On any Appeal, the Appeals Panel may affirm, vary or rescind any Order of the Disciplinary Committee in respect of which the Appeal was brought and may substitute any other finding or Order (on such terms and conditions) as it, in its absolute discretion, considers appropriate.
- 9.14 An Order of the Appeals Panel shall take effect as and from the date thereof, unless the Appeals Panel, in its absolute discretion, directs that it shall take effect from some other date (not being earlier than the date of the Order of the Disciplinary Committee which is subject to the Appeal) as shall be specified in the Order.
- 9.15 Notice of any finding or Order of the Appeals Panel, together with the reasons thereof, shall be given to the RGI Scheme. and to the Complainant and RGI as soon

as practicable. In the case where the Order of the Appeals Panel is to suspend or revoke the Registration of the RGI, then the GSSB shall immediately notify the Commission.

- 9.16 The Order of the Appeals Panel will be final unless the Order is for the revocation or suspension of the Registration of the RGI. If the Order of the Appeals Panel is the suspension or revocation of Registration of the RGI, the RGI may appeal the matter to the Commission, but not otherwise.
- 9.17 Any RGI who appeals the Order of the Disciplinary Committee may be required to lodge an administration fee with the Appeals Panel of a reasonable amount specified by the Appeals Panel (and approved by the Commission).
- 9.18 In the event that:
(i) *the Appeal of the RGI is successful*, the administration fee shall be refunded in full to the RGI
; or,
(ii) *the Appeal does not result in the Order of the Appeals Panel altering or amending the Order of the Disciplinary Committee*, the administration fee shall be non-refundable.

10. Appeal to the Appeals Committee of the Commission

- 10.1 The RGI may appeal against the finding or Order of an Appeals Panel to the Commission only in such circumstances where the sanction imposed/confirmed by the Appeals Panel is for the suspension or revocation of Registration of the RGI.
- 10.2 The RGI must submit its appeal in accordance with the requirements of Section E of the Criteria Document (Appeals to the Commission).

11. Application of disciplinary sanctions by the GSSB

- 11.1 The GSSB shall apply any decision of the Disciplinary Committee or the Appeals Panel with respect to sanctions to be imposed on the RGI further to the completion of the Disciplinary Procedure and in accordance with the Order of the Disciplinary Committee and/or the Appeals Panel (as the case may be).

12. Associated Documentation:

- CRU's Criteria Document CRU/20/088 (version 1.7)
- The RGI Scheme's Rules of Registration
- The RGI Scheme's Suspension Procedure