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1. Investigation of a Complaint by the Complaints Officer

When a Complaint has been conveyed to the Complaints Officer, he/she shall carry out an initial inquiry to establish if the Complaint is one which is legitimate, non-vexatious and within the remit of RECI to deal with and, if so, shall furthermore establish if the Complaint involves a matter specified relating to Clause 4 of the CER Criteria. If so, then it shall with as per the procedure below.

The Complaints Officer shall notify the Respondent of the Complaint in writing and shall confirm that the Complaint is being dealt with pursuant to RECI's Disciplinary Procedure.

The Complaints Officer shall be obliged to investigate the Complaint and to provide a factual report within the period as may be specified by RECI.

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 RECI) 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/conducive to carrying out their inspection and preparing their report (‘Complaint Report’).

The Respondent is required to comply with any reasonable requests of the Complaints Officer (and such other party as may be engaged in assisting the Complaints Officer, as per Clause 6.4 of the CER Criteria) in the preparation of their Complaint Report. This may include attendance at the site subject to Inspection, if deemed appropriate.

Where applicable, an Inspector shall indicate in their Complaint Report whether or not, in their opinion, the works carried out by the Respondent meet the standards and requirements of the Technical Rules and to the extent that they do not where, in their opinion, the deficiencies lie.

The Complaints Officer shall furnish the Respondent with a copy of the Complaint Report by registered post. The Respondent 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.

The Complaints Officer shall, having reviewed all relevant information pertinent to the investigation (including the submissions of the Respondent (if any) and any other party related to the investigation (including for the avoidance of doubt, the Inspector)), shall decide whether or not there is a case to be answered by the Respondent.

The Complaints Officer shall present a final Complaint Report, setting out the

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facts and details of their investigation and their recommendation on whether or not there is a case to be answered by the Respondent to the Disciplinary Committee and any other such recommendation they may make.

The Complaints Officer may, if they deem it necessary in the interest of safety, make a recommendation to RECI Management to withdraw the entitlement to self-certify of the Respondent or to suspend the Registration of the Respondent, pending the conclusion of the Disciplinary Process.

2. Adjudication of the complaint by the Disciplinary Committee

The Disciplinary Committee shall adjudicate on any Complaint referred to it and shall send to the Respondent 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 REC; and
- (vi) a copy of any other documentation which was provided, and which the Complaints Officer considered relevant to the decision that he made.

The Disciplinary Committee shall hold a hearing. As soon as practicable after the Complaint is remitted to it, the Disciplinary Committee shall notify the Respondent, the Complaints Officer and any Complainant of the time and place fixed for the hearing. The Disciplinary Committee shall give the Respondent the opportunity of:

- (i) attending and being heard at the hearing;
- (ii) hearing the evidence against them;
- (iii) questioning, through the chairperson of the Disciplinary Committee, witnesses called by the person or persons presenting and prosecuting the Complaint;
- (iv) adducing documentary evidence;
- (v) calling witnesses to give evidence on their behalf; and
- (vi) making such submissions as they wish to the Disciplinary Committee.

The Disciplinary Committee shall have the opportunity to provide for the following:

- (i) adducing the documentary evidence;
- (ii) calling witnesses (including the Complainant, Inspector and/or the Respondent) to give evidence; and,
- (iii) questioning witnesses called by the Respondent;

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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.

At least 15 working days in advance of the hearing, the Respondent will be furnished with a copy of any documents or materials the Disciplinary Committee intends to rely on and/or a list of any witnesses to be called at the hearing. The Respondent must produce to the Disciplinary Committee a copy of any documents or materials it may wish to rely upon in its defence together with a list of any witnesses it intends to call at least 7 days in advance of the hearing.

If any party seeks to rely on expert evidence, the report by such expert must be served on the other party at least 15 working days in advance of the hearing.

Further to Clause 4.2 of the CER Criteria, if the Respondent 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 Respondent; 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 Respondent notice of its decision.

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.

3. Findings and orders of the Disciplinary Committee

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.

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 Respondent be reprimanded by way of an oral warning;
- (ii) that the Respondent be reprimanded by way of a written warning;
- (iii) that the Respondent be required to give a written undertaking to RECI on the terms set out by the Disciplinary Committee;
- (iv) suspension of the Respondent's entitlement to self-certify for a defined period and the terms upon which the suspension shall be lifted;
- (v) requirement that the Respondent and any employees undergo training or attend specified courses;
- (vi) requirement that the Respondent be subject to a higher frequency of inspection and any resultant/consequent fees/charges associated with

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- such additional Inspections as RECI/Disciplinary Committee may determine;
- (vii) suspension of the Respondent's Registration for a defined period; and/or,
 - (viii) Revocation of the Respondent's Registration with RECI.

Any other such Order that may be made upon such terms and conditions as decided by the Disciplinary Committee in its absolute discretion considers appropriate.

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 Respondent to comply with the order and its terms and conditions.

A copy of the Order shall be given to the Respondent, the Complainant and RECI as soon as practicable. In the case where the Order of the Disciplinary Committee is for Suspension of Registration or Revocation of Registration, that Order shall be required to have immediate effect and the Disciplinary Committee shall immediately notify the Commission of its Order.

RECI shall be obliged to implement and enforce the Order of the Disciplinary Committee in accordance with the provisions of such an Order.

4. Appeals to the Appeals Panel

The Respondent 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.

Unless the Appeals Panel has reasonable cause to find otherwise, the Order of the Disciplinary Committee shall stand and be effective pending the outcome of the appeal.

If the Respondent 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 Respondent.

Any such notice of appeal shall state the grounds of appeal and enclose the submissions of the Respondent (if any) together with a copy of all documents to be relied upon by the Respondent including expert reports and witness statements.

The Appeals Panel shall write to the Respondent advising of the time, date and venue for the Appeal Hearing.

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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.

The Appeals Panel, when considering the Appeal, shall hear the Respondent's submissions relating to the grounds of the Appeal and shall conduct the hearing in such a manner as the Appeals Panel decides is appropriate.

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 the new evidence, at least 10 working days prior to the date set for the hearing of the appeal.

The Appeals Panel shall give the Respondent 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/RECI;
- (iv) questioning witnesses, through the Chair, called by the Complaints Officer;
- (v) adducing the documentary evidence;
- (vi) calling witnesses to give evidence on their behalf; and
- (vii) make such submissions as they wish to the Appeals Panel.

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) adducing documentary evidence;
- (iii) calling witnesses (including, if desired, calling any Complainant to give evidence);
- (iv) questioning witnesses, through the Chair, called by the Respondent; and
- (v) making such submissions as they wish to the Appeals Panel.

The Appeals Panel may invite the Complainant to attend the hearing of the Appeal as an observer and the Complainant shall have no right to participate, other than if called as a witness.

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.

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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.

Notice of any finding or Order of the Appeals Panel, together with the reasons thereof, shall be given to the Respondent and to the Complainant and RECI as soon as practicable. In the case where the Order of the Appeals Panel is for Suspension of Registration or Revocation of Registration, then such Order shall have immediate effect and RECI shall immediately notify the Commission.

The Order of the Appeals Panel will be final unless the Order is for the revocation or suspension of the Registration of the Respondent. If the Order of the Appeals Panel is the Suspension of Registration or Revocation of Registration, the Respondent may appeal the matter to the Commission, but not otherwise.

Any Respondent 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).

In the event that:

- (i) *the Appeal of the Respondent is successful*, the administration fee shall be refunded in full to the Respondent; 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.

5. Appeal to the Appeals Committee of the Commission

The Respondent 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 of Registration or Revocation of Registration.

The Respondent must submit its appeal in accordance with the requirements of Section E of this Criteria Document (Appeals to the Commission).

6. Application of disciplinary sanctions by RECI

RECI shall apply any decision of the Disciplinary Committee or the Appeals Panel with respect to sanctions to be imposed on the Respondent 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).

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Associated Documentation:

- CER Criteria Document CER/13/098 (version 2)
- RECI Rules Booklet