



## **RSC-P-010**

### Complaints and Appeals Procedure

Issue	Prepared by	Reviewed by	Approved by	Issue Date
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## Preface

### Purpose

The purpose of this procedure is to describe the process and procedure to follow where a complaint is received from applicants, Railway Organisations (e.g. Infrastructure Managers, Railway Undertakings etc.), and other interested parties and third parties about the functions within the RSC (decisions and activities), as well as policies and procedures for the performance of the RSC Inspectors.

### Scope

The scope of this procedure will cover the complaints and appeals on inspection, auditing and assessments undertaken by the RSC, the moderation that follows, and the appeal process in order to provide resolution on the outcome of the appeal.

This procedure is prepared in accordance with the requirements of the following documentation, namely:

1. European Directive 2004/49/EC, Railway Safety Directive
2. 2007/59/EC, Directive for the certification of train drivers
3. RSC-G-025-A: Guideline on the application of EC Directive 2007/59/EC on Train Driver Certification in the State.
4. RSC
5. Railway Safety Act, 2005 as amended by S.I. No. 444 of 2013
6. Commission Regulations (EU) No. 1077/2012, 1169/2010 , 1158/2010
7. ISO/IEC 17020: 2012, 7.5, 7.6
8. ISO/IEC 17021: 2011, 9.7, 9.8

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### Responsibility

The Principal Officer (Governance and Regulation) is responsible for the review and updating of this document and the document will be updated on an as-required basis.

### Revision History

Issue	Date	Section Number and Reason for Change
01	20/09/2013	First Issue
02	09/02/2016	Throughout – textual adjustments for clarity Throughout – replace the term “duty holder” with Railway Organisation Scope – Inclusion of S.I. 444 of 2013, EU regulations 1158/2010, 1169/2010, RSC-G-023 as included Responsibility & throughout – Change in title of individual responsible for the procedure (from Head of Administration to Principal Officer (Governance and Regulation)). 1.1 – Inclusion of “Relevant PI” in terms and definitions 2.1 & 2.2 – reference to section 4 included. 3.2 – Removal of two unassigned references. 3.3 – Removal of unassigned reference. 3.3.1 – Removal of unassigned reference. 3.3.2 - Removal of unassigned reference. 4.0 – Inclusion of a new section / step to ensure independence Appendix – inclusion of text linking to the RSC website, customer charter.

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## Abbreviations

ARP	Appeals Review Panel
PI	Principal Inspector
PRP	Peer Review Panel
RSC	Railway Safety Commission
SMT	Senior Management Team

## 1. Introduction

The Complaints and Appeals procedure explains how the RSC receives and manages complaints and appeals from Railway Organisations and others. The RSC aims to provide an efficient and helpful service to both Railway Organisations and those who contact the RSC for information on railway issues. The RSC aims to deliver its service within the targets set by the organisation.

Should a Railway Organisation or other person disagree with an RSC's handling of an activity or decision, or has any other complaint in relation to the RSC's handling of an activity, then the complainant can request the RSC to undertake an internal review. This procedure sets out how such a complaint or appeal is managed by the RSC.

### 1.1 Terms and Definitions

<b>Appeal</b>	Means a request by the provider of the item of inspection to the inspection body for reconsideration by that body of a decision it has made relating to that item (ISO/IEC 17020: 2012, 3.9).
<b>Appeal Review Panel</b>	The Appeal Review Panel comprises of no less than 3 members of the SMT. The Chair of the Appeal Review Panel is the RSC Commissioner.
<b>Complaint</b>	An expression of dissatisfaction, other than appeal, by any person or organization to an inspection body, relating to the activities of that body, where a response is expected (ISO/IEC 17020: 2012, 3.10).
<b>Peer Review Panel</b>	The Peer Review Panel comprises of no less than 3 members of RSC staff, with at least one member of the SMT chairing the panel.
<b>Railway Organisation</b>	As per Regulation 20 of S.I. 444 of 2013.
<b>Relevant PI</b>	A Principal Inspector who must be independent of the activity or decision which is being challenged.

## 2 Procedure Overview

The RSC's complaints and appeals procedure is guided by the following principles:

- **Proportionality** in applying legislation and securing compliance;
- **Consistency** of approach;
- **Targeting** of enforcement action and setting priorities for activities under the supervision regime;
- **Resources** effectively applied by the RSC;
- **Transparency** about how the RSC operates and what those regulated may expect;
- **Accountability** for the RSC's decisions or actions;
- **Co-operation** with equivalent Competent Authorities such as the HSA.

This procedure sets out the process to be followed by the RSC on receipt of a complaint or appeal, and it sets out the RSC actions to be undertaken in regard to same.

### 2.1 Criteria for the Selection of the Peer Review Panel

The members of the Peer Review Panel will be made up of three RSC staff members (inclusive of the Chair Person) who must be independent of the activity or decision which is challenged. In the event that a member of the Peer Review Panel has a conflict of interest, based upon the facts or circumstances of a specific complaint, then this must be declared to the Commissioner and a suitable substitute must be identified.

The chair of the Peer Review Panel must be a member of the Senior Management Team (SMT) within the RSC. The Commissioner must be informed on the formation and composition of the Peer Review Panel.

**Note:** If independence from the activity or decision being challenged cannot be achieved, refer to section 4.

### 2.2 Criteria for the Selection of the Appeal Review Panel

The members of the Appeal Review Panel will be made up of three RSC SMT staff members (inclusive of the Chair Person) who must be independent of the decision being appealed. In the event that a member of the Appeal Review Panel has a conflict of interest, based upon the facts or circumstances of a specific complaint, then this must be declared to the Commissioner and a suitable substitute must be identified.

The chair of the Appeal Review Panel must be the Commissioner.

**Note:** If independence from the activity or decision being challenged cannot be achieved, refer to section 4.

## 3 Operating Procedures

### 3.1 General

Railway Organisations are guided by information on the RSC website of the various mechanisms by which to lodge a complaint or appeal against the RSC (see Appendix I). The Principal Officer (Governance and Regulation) must acknowledge the receipt of the complaint or appeal, and provide the complainant / appellant with information on how the RSC will manage their application including but not limited to timeframe and process.

**Note:** All communication between the RSC and the complainant / appellant is controlled and managed through the Principal Officer (Governance and Regulation).

### 3.2 Making a complaint

Where a concerned Railway Organisation is dissatisfied with the manner by which an RSC activity was undertaken, they must inform the RSC of their dissatisfaction. The RSC website will direct the individual or entity to the two methods of submitting such a complaint as described in Appendix I of this report. The correspondence is recorded and managed in accordance with the RSC's document control procedure.

The process by which the complaint is managed is depicted by the flowchart in Appendix II. As stated previously, complaints will be received and initially reviewed by the Principal Officer (Governance

and Regulation) in order to identify the relevant department to which the complaint is concerned. The Relevant Principal Inspector (PI) must be independent of the activity or decision to enable them undertake an initial review. This initial review will include a review of relevant submitted information and relevant evidence at a minimum. Should the relevant PI deem the complaint invalid, the PI must inform the Principal Officer (Governance and Regulation) of the decision with a clear explanation for the decision. This must then be formally communicated to the complainant in accordance with.

At this point the complainant has the right to appeal as set out by Section 3.3 below.

Should the Relevant PI determine that a valid case is present, then a Peer Review Panel must be convened as described in Section 2.1. The Peer Review Panel is required to undertake a thorough and documented review of the information and evidence relevant to the complaint. This review must also include a documented decision making process. Should this process determine that the complaint is valid, appropriate corrective action must be determined by the Peer Review Panel through *inter-alia* engineering judgement and international best practice. This must be communicated to the Principal Officer (Governance and Regulation). The decision, corrective action, and the status of the corrective action must then be advised to the complainant.

Should the Peer Review Panel deem the complaint invalid, the Peer Review Panel must inform the Principal Officer (Governance and Regulation) of their decision with a clear explanation of same. This must then be formally communicated to the complainant. At this point the complainant has the right to appeal as described in Section 3.3 below.

### **3.3 Making an appeal**

An appeal can be made against a decision following an RSC activity, or following a dismissal of a complaint as described by Section 3.2 above.

An appeal must be made within 21 days of the notification of the decision. An appeal is lodged in a similar fashion as a complaint. The correspondence is recorded and managed in accordance with the RSC's document control process.

The process by which the appeal is managed as depicted in Appendix III.

#### **3.3.1 Appeal made against an RSC Decision**

An appeal will be received and initially reviewed by the Principal Officer (Governance and Regulation) in order to identify the relevant department to which the appeal is concerned. The relevant PI must be independent of the activity or decision to enable them to undertake an initial review. This initial review will include a review of relevant submitted information and relevant evidence at a minimum. Should the relevant PI deem the appeal invalid, he/she must inform the Principal Officer (Governance and Regulation) of the decision with a clear explanation for the decision. This must then be formally communicated to the complainant. At this point the complainant has the right to appeal to the High Court as provided for by the Railway Safety Act, 2005.

Should the relevant PI determine that a valid case is present, then a Peer Review Panel must be convened as described in Section 2.1. The Peer Review Panel is required to undertake a thorough and documented review of the information and evidence relevant to the appeal. This review must also include a documented decision making process. Should this process determine that the appeal is valid, appropriate corrective action must be determined by the Peer Review Panel through *inter-alia* engineering judgement and international best practice.

Should the Peer Review Group deem the complaint invalid, the Peer Review Panel must inform the Principal Officer (Governance and Regulation) of their decision with a clear explanation for the decision. This must then be formally communicated to the complainant. At this point the complainant has the right to appeal as provided for by the Railway Safety Act, 2005.

### **3.3.2 Appeal made against the dismissal of a complaint**

An appeal will be received and initially reviewed by the Principal Officer (Governance and Regulation). Should the appeal be made against the documented dismissal of a complaint, an Appeal Review Panel must be convened and chaired by the Railway Safety Commissioner to undertake an initiate a detailed review. This will include a documented review of relevant submitted information and relevant evidence at a minimum. This review must also include a documented decision making process. Should the Appeal Review Panel deem the appeal invalid, they must inform the Principal Officer (Governance and Regulation) of the decision with a clear explanation for the decision. This must then be formally communicated to the complainant. At this point the complainant has the right to appeal to the High Court as provided for by the Railway Safety Act.

Should the Appeal Review Panel determine that a valid case is present, then the Appeal Review Panel must identify appropriate corrective action through *inter-alia* engineering judgement and international best practice. This must be communicated to the Principal Officer (Governance and Regulation). The decision, corrective action, and the status of the corrective action must then be issued to the complainant.

## **4 Independence**

On receipt of either a complaint or an appeal, if the RSC are of the opinion that a level of independence to adjudicate over the process is not available internally, the RSC will then seek an independent party to facilitate the review. The party's decision shall be final.



## Appendix I

### RSC Website Text

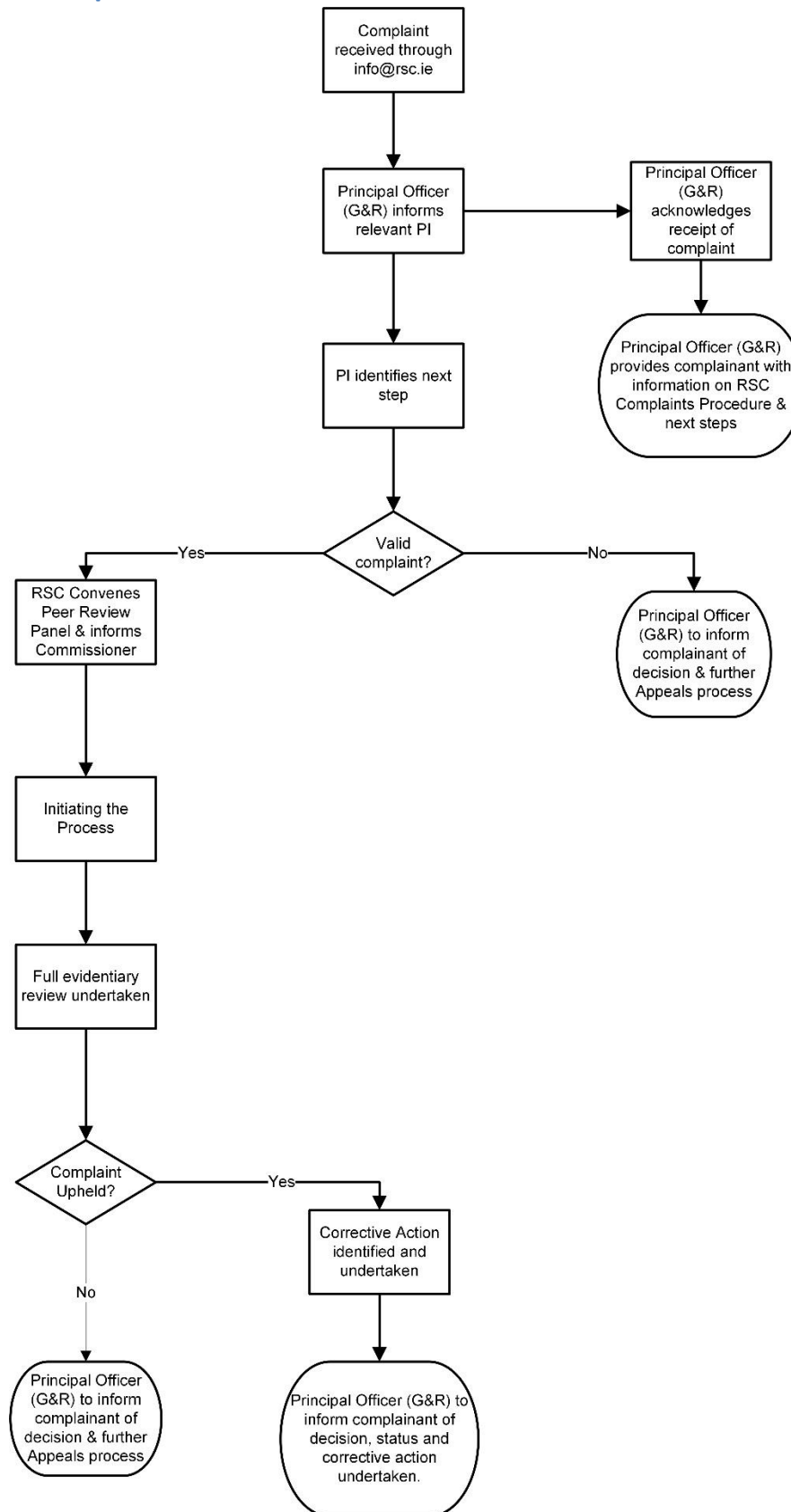
Detail can be found on the RSC's website on the process by which to lodge a complaint or an appeal. The following location applies:

[www.rsc.ie](http://www.rsc.ie)

- "About us"
- "Service Charter"

## Appendix II

### Flowchart of Complaints Process



## Appendix III

### Flowchart of Appeals Process

