



Railei DISCIPLINARY PROCEDURES

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(Next Review: as required or by Autumn 2028, whichever is the earlier)



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1. Introduction

This document contains advice to members of the Railway Engineering Institution (RailEI), members of the public and members of other professional organisations and bodies who may be dissatisfied with the professional conduct of a member of RailEI and wish to know if they have a basis upon which they wish to make a complaint to RailEI.

The document sets out, from Section 4. below, the process that the Institution will follow in the event that it receives a complaint against a member.

In cases where the Institution itself identifies potential Member misconduct, the Institution will prepare a statement setting out how it is alleged that the Member in question's conduct falls short of the requirements set out within the Institution's Code of Professional Conduct. The Institution's statement together with any supporting evidence will initiate a Preliminary Investigation, at Section 8 below, and subsequent process.

2. Documents that define professional conduct

The way in which members of the Railway Engineering Institution should conduct themselves is laid down in the Railway Engineering Institution's Code of Professional Conduct.

The Code of Professional Conduct and Disciplinary Procedure are established under clause 47(2)(i) and 47(2)(ii) of RailEI's Articles of Association and are reviewed by the Board at appropriate intervals, and at least every five years.

3. Principles of this Disciplinary Procedure

- 3.1 The procedure shall be clear, open, fair, unbiased and proportionate.
- 3.2 All persons involved should respect the confidentiality of the proceedings.
- 3.3 No person shall participate in decision-making in more than one stage of the procedure in any particular case.
- 3.4 Staff that provide secretarial support and procedural advice shall not participate in the decision-making process.
- 3.5 There shall be a presumption of no liability until a breach of the Code of Professional Conduct is admitted or proved. Decisions shall be based on the appropriate standard of proof.
- 3.6 Proved breaches of the Code of Professional Conduct will attract sanctions commensurate with the seriousness of the breach.
- 3.7 Records will be maintained for a minimum period of ten years.

4. Making a formal complaint about a member

You may complain about anyone who is a member of RailEI, whatever their grade.

To confirm whether an individual is a member, please send an email to the secretary of the Railway Engineering Institution at secretary@railei.org.



5. What you can complain about

You may complain to the Railway Engineering Institution if you think that a member of the Institution is guilty of improper behaviour.

This means that the member of RailEI has not acted in accordance with the RailEI Code of Professional Conduct. This includes cases where a member has not discharged their professional duties with integrity or where they have not safeguarded the health and safety of themselves, others with whom they work or are employed by, or the general public.

A member of RailEI who has been found guilty of a criminal offence may be guilty of improper behaviour, even if this has nothing to do directly with their work.

6. Making a complaint

If you wish to make a complaint against a member of the Railway Engineering Institution you should first contact the Secretary who can be contacted at secretary@railei.org. The Secretary will advise you on the process associated with making a complaint.

7. Information required when making a complaint

A statement will be required defining exactly what you consider our member has done wrong, stating your reasons for regarding their conduct as amounting to improper behaviour.

This should be a straightforward, logical account in simple language.

In support of the statement you should provide, where possible, a record of all the key events that occurred in a chronological order. This statement will be important in the event that the complaint relates to a series of incidents spread over a period of time which, if considered together, could be taken to amount to improper behaviour, but which, if viewed separately, would not necessarily be seen to be so serious.

In addition, you should submit copies of the evidence available to support your complaint. This can include emails, letters, plans, drawings, photographs, bills or invoices.

You are only required to send in evidence that has a direct bearing on what you are complaining about. If you are not sure what you should send in, you may ask the Secretary for advice.

8. Preliminary Investigation

Once a complaint has been received a Preliminary Investigation will decide whether or not there is a case to answer. The investigation will first determine whether the alleged improper behaviour would, if admitted or proved, lie within the jurisdiction, of the Disciplinary Panel. If so, evidence will be assembled to assess the validity of the complaint. The subject of the complaint will be informed and kept informed of developments. Evidence submitted by the complainant will be disclosed to the subject and vice versa.

A decision of 'no case to answer' will result in the dismissal of the complaint. The subject and the complainant will be informed of the reason for the decision. A finding that there is a 'case to answer' will result in a referral to a Disciplinary Panel.



The Preliminary Investigation will determine whether any criminal or civil court proceedings related to the alleged improper behaviour are likely or under way. If so, then the disciplinary hearing will not proceed until court proceedings, including any appeal, are complete as the court proceedings might otherwise be prejudiced. Where the subject has been convicted of a criminal offence or found liable in a civil court, the disciplinary hearing will separately determine whether the subject's conduct (including, but not limited to, that proven in court) amounts to a breach of the Code of Professional Conduct.

9. The Disciplinary Panel

The disciplinary hearing will be conducted by a Panel of not fewer than three senior, experienced members. A person who has participated in a Preliminary Investigation will not act as a member of the Panel for the same case. The Disciplinary Panel Chair reports directly to the RailEI Board. The Panel acts as impartial assessors of the complaint. They also decide sanctions from a list prescribed in this procedure and advise the Board of their findings.

10. The Disciplinary Process

The disciplinary process involves the collection, examination, and clarification of evidence. The complainant and the subject should have timely access to evidence and responses. Where the allegation relates to matters of a specialised nature the Panel will consider engaging one or more independent expert witnesses. The Panel may make a decision after examining the evidence or, in more serious or complex cases, organise an extended hearing to which all parties are invited.

For extended disciplinary hearings consideration will be given to inviting a legal advisor to attend to advise on the legal process, but not to vote on the decision. Parties involved are entitled to bring to the hearing a 'next friend' who may be a lawyer whom they may pay to represent them, including to speak on their behalf.

Consideration will be given to adjourning the hearing if the subject is unable to be present or represented as it is in the interests of all parties that they attend wherever possible to present their case. If the subject fails to appear on the day, a brief adjournment will be considered to allow enquiries to be made.

The hearings shall be conducted with transparent fairness. They comprise a statement by the investigator (or his/her representative) of the complaint and evidence to support it (with any cross-examination of witnesses) followed by a rebuttal (by the subject or his/her representative) with evidence (which is also open to cross-examination). Additionally, evidence may include written statements, at the Panel's discretion. Neither party should present new evidence which has not been disclosed in advance.

The complainant may be invited or permitted to attend the proceedings (accompanied if desired by a 'next friend').

A member who resigns after a complaint has been made, or whose membership would be terminated for non-payment of subscriptions, will be deemed to remain in membership until the disciplinary process has reached its decision. If the decision is that the person be expelled from membership, deemed membership will allow that decision to be effected and shown on the record should he/she ever seek to re-join RailEI.



In most cases the burden of proof is the civil standard, the 'balance of probabilities'. However, in cases where a 'licence to practise' may be involved, the burden of proof should be 'beyond reasonable doubt'.

If the complaint is admitted or upheld, the Panel determines which section of the Code of Professional Conduct has been breached, hears any mitigation and decides the sanction.

Sanctions available to the Disciplinary Panel are:

- Expulsion from Membership
- Suspension from Membership for any period
- Reprimand accompanied by advice on future actions or retraining.

An order for costs could in some circumstances be appropriate, for example if RailEI had found it necessary to engage a lawyer.

11. Right of Appeal

A right of appeal is available to the complainant following the Preliminary Investigation and to the subject following the disciplinary hearing. The time limit for lodging an appeal is fifteen working days after the end of the appropriate stage.

An Appeal Panel will be convened for all appeals received in-time. The appeal will be considered by persons who have had no contact with the case beforehand. RailEI may decide to have a legal advisor in attendance.

Appeals must be based on specific recognised grounds as outlined below:

- Jurisdiction (whether the alleged improper behaviour would be within the scope of the provisions of the Code of Professional Conduct)
- Procedure (was not followed)
- Perversity (the decision was perverse in the light of the evidence)
- New evidence (which could not reasonably have been produced at the original hearing)

and additionally for an appeal against a Disciplinary Panel decision:

- Proportionality (the sanction was disproportionate to the gravity of the breach).

The argument under each ground must stand on its own. Leave to appeal may be granted on more than one ground, but will not be granted in response to an accumulation of individually insufficient arguments under two or more grounds.

An appeal against a decision of 'no case to answer' following Preliminary Investigation will be considered by one person independent of RailEI. In these circumstances only, leave to appeal and the appeal itself may be considered as a single process and be conducted by the same person. If there are valid grounds for appeal the independent reviewer will review the material presented to the Preliminary Investigation, the record of its decision and any additional evidence admitted. If the independent reviewer decides that there is a 'case to answer' RailEI will refer the case to a Disciplinary Panel.



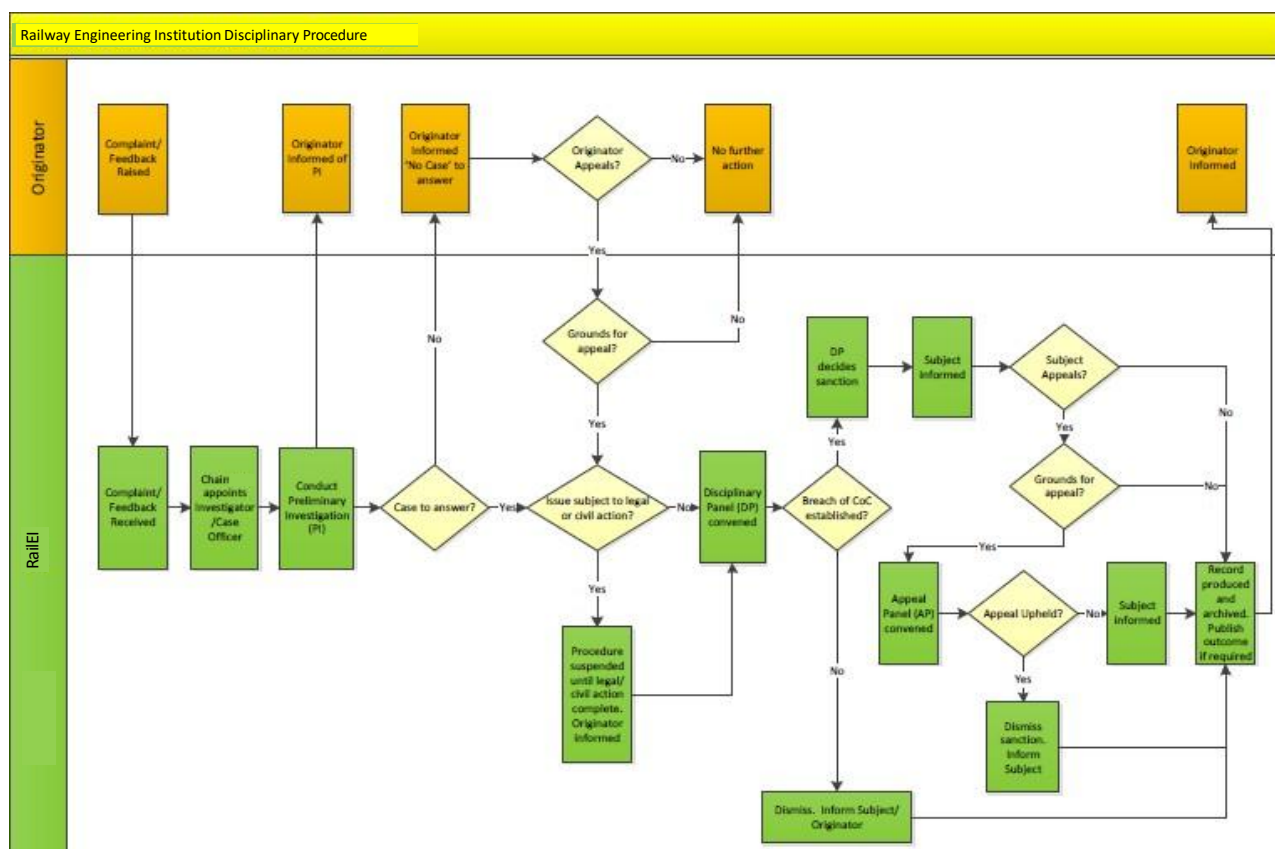
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The Institution will with minimum delay convene an Appeal Panel comprising at least three senior persons, two members and one lay person independent of RailEI (ie not from the same discipline or profession as the Institution Panel members). The appeal hearing will follow the same principles as the disciplinary hearing, modified to suit the accepted grounds for appeal; a full re-hearing is not essential in all circumstances.

If the appeal is upheld the Appeal Panel may reverse the decision of the Disciplinary Panel or uphold its decision, but reduce the sanction.

Appeal to the Engineering Council is only available if a professionally registered member, in losing his/her membership as a result of disciplinary action by the Institution, also loses his/her registration and the RailEI's appeals process has been exhausted. This appeal is carried out under the relevant Engineering Council Regulation.

12. Disciplinary Procedure Flowchart



13. RailEI Disciplinary Procedure – Guidance Notes

13.1 Preliminary Investigation

The preliminary investigation can be conducted by a small panel, or even one nominated member of the Institution, appointed by the President.



The reason for the decision 'no case to answer' can be lack of jurisdiction or insufficiency of evidence or both. Records of the complaint, including the evidence, need not be maintained beyond the time limit for any appeal by the complainant against the decision.

13.2 Disciplinary Panel

Panel members should be independent of the prior process. A person who has participated in a Preliminary Investigation should not act as a member of the Panel for the same case. In more serious cases, including where a 'licence to practise' may be involved, one or more lay members (ie persons not from the same discipline or profession as the Institution Panel members) should be included on the Panel. If possible, a legal advisor should attend all hearings.

If any individual who is asked to serve on any panel has a conflict of interest in relation to any part of the allegations, or has a connection with the subject or the complainant which creates a real danger of bias, or which could cause others to think it could influence their decision, they should declare it and disqualify themselves from participating.

13.3 Appeal Panel

The Appeal Panel should be as independent of the Board as is practical, bearing in mind the need to understand and weigh specialist subject matter.

13.4 Engineering Council

RailEI must inform the Engineering Council of any expulsion, whether or not the individual is registered by the Institution.

Complaints not amounting to an appeal to the Engineering Council in respect of other matters, may result in the Engineering Council discussing the case with the RailEI only to confirm that the procedure approved as part of the licensing process had been followed.

Where a complaint is upheld and the appeal process exhausted, the Engineering Council is responsible for informing any other institutions of which the registrant is known to be a member, so that they may decide what action should be taken. This is particularly important if the person is registered through an institution other than that which has carried out the disciplinary procedure.