

Criteria Modification Proposal Form

Section A: Contact Details	
Name of Requesting Organisation	Commission for Energy Regulation
Contact Name	Karl Hurley
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Date Modification Request Raised	26/01/10

Section B: Modification Details	
Modification Title	Role of the Complaints Officer
Sections affected by Modification Proposal	Section D 7, 8, 9, 10, 11, 12, 13

Proposed Alternate Wording
<p>Section D 7: Investigation of Complaint by the Complaints Officer</p> <p>7.1 to 7.7 Unchanged</p> <p>7.8 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.</p> <p>7.9 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 any other such recommendation they may make with respect to competency and/or the Inspection Performance Criteria (further to the system established by the Body under Section B 3.4).</p> <p>7.10 7.9 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.</p> <p>8 Deleted "Considerations of the report of the Complaints Officer by the Disciplinary Committee."</p> <p>9-8 "Adjudication of the Complaint by the Disciplinary Committee."</p> <p>9.1 8.1 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) – (vi) unchanged.</p> <p>9.2 to 9.10 8.2 to 8.10 Unchanged</p> <p>10 9 "Findings and Orders of the Disciplinary Committee".</p> <p>11 10 "Appeals to the Appeals Panel". Unchanged</p> <p>12 11 "Appeals to the Appeals Committee of the Commission". Unchanged</p>

13 12 "Application of Disciplinary Sanctions by the Body". Unchanged

Modification Proposal Justification

The Modifications being presented in this Proposal are substantive; they cover a number of issues that need to be amended as a matter of urgency. The Commission completed an internal legal review of the Disciplinary Process, detailed in Section D of the Criteria Document as has been conducted by the Electrical Safety Supervisory section. The Commission wishes to clarify the remit of the Complaints Officer and the procedures that follow from this work. The Complaints Officer shall now compile their report without a recommendation for a hearing or not. All RGIs subject to a Complaint Report will now be subject to a Disciplinary Committee hearing.

The modification to Sub Section 7 is being introduced to remove any prejudicial recommendations that may come out of the investigation.

Sub Section 8: by removing the pre-hearing decision element the Commission is aiming to make the process more transparent for those involved and that the Disciplinary Process is seen to be and is following due process in a fair manner.

The remainder of the changes reflect the new numbering sequence.

Implication of Not Implementing the Modification

An Order that is issued by the Disciplinary Committee against an RGI could be overturned on the grounds of a perceived bias against the RGI, by holding a pre-hearing meeting to determine if the substance of the Complaint Report merits a full hearing.

Section C: (For CER Use Only)

Submitted by	Karl Hurley
Date Proposal Received by Secretary	26/01/10
Type of Proposal (Urgent/Standard)	Urgent
Tracking Number	001