



RIAS-regs

Complaints Procedure – Design Certification

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RIAS
The Royal Incorporation
of Architects in Scotland

1. Introduction

This document sets out the procedures to be followed on the receipt of a complaint. For the purposes of this document a complaint can be received from:

- A member of the public
- An applicant or agent for a building warrant
- A local authority Verifier
- An Approved Certifier of Design
- The Building Standards Division of the Scottish Government (BSD)
- Other public body, police authority etc

A complaint can be received by an Approved Certifier of Design, an Approved Body, or by the Schemes' themselves. A complaint to an Approved Certifier of Design must be passed immediately to their Approved Body.

The first thing to establish is the nature and validity of any complaint. For a complaint to be considered it must:

- Be made in writing
- Be from a person or body who has a relationship with the subject of the complaint and confirm the full nature of that relationship
- Detail the nature of the complaint

Examples of complaints that might be received are:

- A client is unhappy with the time taken by an Approved Certifier of Design to produce a certificate
- A Verifier may raise concerns regarding a design which has been certified
- An Energy Assessor may raise a concern regarding a previously certified design
- An Approved Certifier of Design may appeal against the decision of the Schemes' Conduct or Disciplinary Panels
- A public body may advise that an Approved Body has ceased to trade or failed to maintain PI insurance

This is by no means a comprehensive list and merely serves to show, the range of potential complaints.

2. Notifications

Notifications from the Schemes to Complainants and the subject of complaints will be made by email and registered post to the address provided by the complainant and the Approved Certifier of Designs Approved Body.

3. Complaints Received by an Approved Certifier of Design or an Approved Body

Every Approved Body is required to have their own procedures by which they acknowledge and deal with complaints. Each Approved Body is also required to notify the Schemes of each and every complaint that they receive and the steps which they take to resolve them.

In general, the Schemes will only consider these complaints if:

- The complainant refers the complaint to a Scheme, and
- The Approved Body's own procedures have been exhausted, or
- The Head of Certification considers that the nature of the complaint is such that the Scheme should take immediate action – for example an allegation of criminal activity

4. Complaints Received by the Scheme Provider Regarding an Approved Certifier of Design or an Approved Body

The Schemes will deal with written complaints in as timely a manner as possible, while ensuring each of the steps outlined below are followed.

This section deals with:

- complaints about the conduct of any Approved Certifier of Design or Approved Body who are members of a Scheme for Certification of Design to certify compliance with one or more parts of the Technical Standards by RIAS-reg in connection with their activities with regard to the certification of design under the Building (Scotland) Act 2003 and the Building (Scotland) (Procedures) Regulations 2004, and
- the procedures for making an appeal by an Approved Certifier of Design against a decision relating to the membership of the Scheme, and
- the procedures for making an appeal by an Approved Certifier of Design against a decision on the part of the Conduct or Disciplinary Panel

All complaints must be made in writing, detailing the substance of the complaint, to the Head of Certification, RIAS-regs, 15 Rutland Square, Edinburgh, EH1 2BE. Any appeal against a decision relating to membership of a Scheme must be lodged with the Head of Certification, within 10 working days of the notification of that decision.

The Schemes' Administrator will record all complaints received and undertake the administrative steps outlined below. The Schemes' Administrator will also maintain an overall record of complaints received and the resolution of these.

The Head of Certification has overall responsibility for co-coordinating the response to any complaint received, by requesting and collating information, convening meetings and notifying relevant parties.

If on initial investigation the Head of Certification considers the nature of the complaint to be sufficiently serious and considers the complaint to be well founded (for example an allegation of fraud) the Head of Certification should seek an immediate decision on the part of the Disciplinary Panel (if available) to suspend the Approved Certifier of Design / Approved Body, pending further investigation.

If, as may be likely, the Approved Certifier of Design is also a member of a Professional Body and the Head of Certification considers that the nature of complaint has wider implications, with regard to the Approved Certifier of Designs professional conduct, then the Head of Certification must pass on the complaint to the relevant body and await the outcome of their procedures before instigating further proceedings within the relevant Scheme.

4.1 Time Scales

It is important that complaints are dealt with as quickly as possible. The Head of Certification has the responsibility of notifying BSD on receipt of a complaint and the subsequent steps taken to resolve that complaint (on the part of RIAS-regs) within the time limits prescribed in the Scottish Governments Scheme Providers Handbook which allows no more than¹:

- i. 20 days between receipt of a complaint and notification to the Building Standards Division that a complaint is to be heard by the certification disciplinary panel
- ii. 40 days between notification that a complaint is to be heard by the certification disciplinary panel and determination of the complaint
- iii. 10 days between notification of the determination of the complaint and receipt of notification of an appeal
- iv. 10 days between receipt of notification of a decision on membership and notification that an appeal is to be lodged
- v. 40 days between receipt of notification of an appeal and determination of the appeal

The above timescales place the onus on RIAS-regs to respond to a complaint including seeking information from both the subject of the complaint and the complainant as soon as possible. In seeking information, the Schemes have a duty to inform both parties that a failure to provide such information, within a timescale which allows the complaints procedure to be completed within the requirements of the Scottish Government, may mean that the subject of the complaint is unable to mount a robust defence or that the complaint itself is ruled out as unfounded or malicious.

The time scales noted in the procedures outline in Sections, 4, 5 and 6 below are backstop values and wherever possible actions should be taken by the Schemes well within these. The Schemes' Administrator will keep a record of actions and timescales for actions for each complaint and these are summarised in the following table.

Complaints assessed by the Conduct Panel	
Acknowledge receipt of complaint, appoint conduct panel, notify BSD that a Conduct Panel is to be convened and request a response from the subject of the complaint	Within 10 working days from receipt
Response period for the subject of the complaint to make a submission	Within 15 working days starting from the date of acknowledging receipt
Convene Conduct Panel	Within 5 working days of the end of the submission period
Communicate decision	Within 2 working days of decision
Referrals to the Disciplinary Action	
Notify the Approved Certifier of Design / Approved Body that there will be a disciplinary hearing regarding their conduct	Within 5 working days of the referral
Notice period	Minimum 20 and maximum 30 working days
Communicate decision	Within 2 working days of decision

¹ <http://www.scotland.gov.uk/Topics/Built-Environment/Building/Building-standards/profinfo/cert/certhandbook>

Appeals Against Conduct and Disciplinary Panels Decisions or With Regard to Removal from membership	
Appeals must be made within 10 working days of the decision of the Conduct or Disciplinary Panels being communicated	
Acknowledge receipt of the Appeal and inform BSD	Within 10 working days of receiving an appeal
Notice period	Minimum 20 and maximum 40 working days starting from the date that receipt of the appeal is acknowledged
Communicate decision	Within 2 working days of decision

In the case of a serious allegation the Head of Certification has the option to suspend an Approved Certifier of Design and/or Approved Body. Such a suspension is immediate, and the IT Infrastructure prevents a suspended Approved Certifier of Design from creating a Certificate of Design.

Within 24 hours of a suspension the BSD will receive an updated membership file, which records the Approved Certifier of Design and/or Approved Body's suspension, ensuring that no Certificates of Design signed after the date of suspension can be verified by a local authority using the BSD website.

5. Conduct Panel

5.1 Responsibilities

The Conduct Panel is responsible for deciding whether a complaint

- merits consideration by the Disciplinary Panel, or
- may be resolved by requiring specific work or other action (except fines), or
- should be rejected

5.2 Constitution

The Conduct Panel will consist of:

- The Head of Certification
- An Approved Certifier of Design, who may be an Auditor, but may not be a member of the Review or Disciplinary Panels, nor is an employee of the CIAT, CIBSE, RIAS, RIAS Services Limited or Home Energy and Design Services Limited or any associated bodies or companies

5.3 Powers

The Conduct Panel may reject a complaint on the grounds that:

- it does not directly concern Certification of Design under the Building (Scotland) Act 2003, or
- it is outside the scope of the relevant Scheme, or
- insufficient information has been provided on the part of the complainant from which to reach a decision

The Conduct Panel may defer their decision or refer the complaint to the Disciplinary Panel if insufficient information has been provided by the subject of the complaint. The Conduct Panel must refer to the Disciplinary Panel any complaint alleging:

- a breach of section 11(4) of the Building (Scotland) Amendment Act 2006, or
- that an Approved Certifier of Design and/or Approved Body has not acted in accordance with other rules, limitations, or conditions of the relevant Scheme

If the complaint appears to concern a simple mistake, the Conduct Panel may recommend that the complaint would merit a hearing by the Disciplinary Panel if the subject of the complaint does not satisfactorily complete certain work within a specified time.

5.4 Procedures

Within 10 working days of receipt of a complaint, the Head of Certification (or a named deputy) will:

- Acknowledge receipt of the complaint to the complainant, in writing
- Appoint a Conduct Panel to consider the complaint
- Notify the Approved Certifier of Design or Approved Body in writing that they or it are the subject of a complaint, and request them to submit a written response within 15 working days

The Conduct Panel may conduct its business in whatever manner (including physical meetings, telephone conversations and exchange of either hard copy or electronic correspondence) it deems appropriate in the particular circumstances.

The Conduct Panel will convene within 5 working days of receipt of the response to the complaint from the subject of the complaint. If, in order to, make a decision, the Conduct Panel concludes that it requires further information from either the complainant or the subject of the complaint, it may do so, requesting a response within 10 working days. The Conduct Panel will then reconvene, to reach its decision, within 5 working days of receipt of the further information. Within 2 working days of the decision of the Conduct Panel:

- The complainant and the subject of the complaint will be informed, in writing, of the decision
- BSD will be informed, in writing, if the complaint is to be heard by the Disciplinary Panel
- The relevant Local Authority will be informed, in writing, if the complaint alleges that an Approved Certifier of Design has acted in breach of section 11(4) of the *Building (Scotland) Act 2003*.

Any appeal against the decision of the Panel must be lodged with the Head of Certification, in writing, within 10 working days of the notification of that decision (see Section 6 below).

6. Disciplinary Panel

6.1 Responsibilities

The Disciplinary Panel is responsible for hearing and determining any complaint concerning a member of the Schemes that alleges a breach of section 11 (4) of the Building (Scotland) Act 2003 or any other complaint that the Conduct Panel considers merits a hearing.

6.2 Constitution

The Disciplinary Panel will consist of one senior member of the RIAS nominated by the President of the RIAS, one senior member of CIAT nominated by the President of CIAT and one senior member of CIBSE nominated by the President of CIBSE.

All three members of the Disciplinary Panel must be independent of the running of the Schemes. At least one member of the Panel must be an Approved Certifier of Design. No more than one member of the Disciplinary Panel may have sat on the Conduct Panel for the same complaint.

The Head of Certification will act as Secretary to the Disciplinary Panel but *must not* participate in the decision-making process of the Panel. The Disciplinary Panel may choose to have a legal advisor at its meetings.

6.3 Powers

The Disciplinary Panel must always terminate membership of the Schemes if it considers that an Approved Certifier of Design has acted in breach of section 11(4) of the Building Scotland Act 2003.

The Disciplinary Panel may recommend sanctions if an Approved Certifier of Design or Approved Body have not acted within other rules, limitations, or conditions of the Scheme. Sanctions may include:

- Termination
- Reprimand with an extraordinary audit within six months
- Reprimand but not fines

The Panel may reject a complaint on the grounds that:

- it does not directly concern certification of design under the Building (Scotland) Act 2003
- it is outside the scope of the Schemes
- insufficient information has been provided on the part of the complainant from which to reach a decision

The Disciplinary Panel may defer their decision if insufficient information has been provided by the subject of the complaint. Decisions of the Disciplinary Panel are, subject to appeal, binding on the subject of the complaint.

6.4 Procedures

The Disciplinary Panel will normally convene a hearing within 40 working days of notification that it is to hear a complaint

A minimum of 20 working days notice of the proposed date of the hearing will be given to the subject of the complaint. They will normally be required to attend for interview by the Disciplinary Panel in person and may choose to be accompanied by their legal adviser. Membership of the Scheme may be terminated by the Disciplinary Panel where the subject of the complaint fails to attend without valid reason. The decision of the Disciplinary Panel will be notified, in writing, within 2 working days of the meeting, to:

- the complainant and
- the subject of the complaint and
- BSD

Any appeal against the decision of the Panel must be lodged with the Head of Certification in writing, within 10 working days of the notification of that decision (see Section 6 below).

7. Appeals Panel

7.1 Responsibilities

The Appeals Panel is responsible for determining any appeal against a decision of the Conduct Panel or the Disciplinary Panel or any decision regarding membership of the Scheme.

7.2 Constitution

The Appeals Panel will be chaired by a person independent of the CIAT, RIAS, CIBSE, RIAS Services Ltd, Home Energy and Data Services Limited and any associated bodies and companies. The Chair is to be nominated by the Construction Industry Council.

The Chairperson will then nominate two other persons to sit on the Appeals Panel in a personal capacity

No member of the Appeals Panel may:

- Be a member of CIAT, CIBSE or RIAS
- have an interest in RIAS Services Ltd, Home Energy and Data Services Limited or any associated companies
- have any interest in the complainant, or
- the subject of the complaint, or
- has been a member of either the Conduct Panel or the Disciplinary Panel which previously considered the complaint

The Head of Certification will act as Secretary to the Panel but *must not* participate in the decision-making process of the Appeal Panel. The Appeal Panel may choose to have a legal adviser in attendance at its meetings.

7.3 Power

The only grounds for an appeal against the decision of the Conduct Panel or the Disciplinary Panel are that those Panels were not properly constituted or conducted.

In the case of appeals against a decision on membership taken, following assessment of an application for membership or renewal of membership, or following audit, the appeal may be rejected if the complainant:

- Does not attend an interview with the Appeal Panel in person, if requested to do so, or
- Fails to demonstrate that the assessment or audit was not properly conducted, or the rules, limitations, or conditions of the relevant Scheme were not correctly applied.

7.4 Procedures

Acknowledgement of receipt of notification of an appeal being lodged will be made within 10 working days of receipt. BSD will be informed at the same time.

In the cases of appeals against decisions of the Conduct or Disciplinary Panels, or an appeal against the withdrawal of membership, the Appeal Panel will normally convene within 40 working days of the receipt of the notification of the appeal.

A minimum of 20 working days notice of the proposed date of the meeting will be given to the person lodging the appeal. They will normally be required to attend for interview by the Appeal Panel in person and may choose to be accompanied by their legal adviser.

7.5 Appeals Panel procedures

The decision of the Appeal Panel will be notified to the person who lodged the appeal and BSD and, if appropriate, the original complainant, within 2 working days of the meeting.

8. Termination of Membership

In the event that an Approved Certifier of Design or Approved Body is suspended or their membership of one or more Schemes is terminated, then the Schemes' IT system immediately removes the ability to register a Certificate of Design with the system. The Schemes' IT Manager will then notify BSD that the Certifier and/or the Approved Body have been removed from the list of those registered by the Schemes.

9. Complaints Received by the Scheme Provider Regarding an Auditor

The Schemes' will deal with written complaints in as timely a manner as possible, while ensuring each of the steps outlined below are followed. This section deals with complaints about an Auditor.

All complaints must be made in writing, detailing the substance of the complaint, to the Head of Certification, RIAS-regs, 15 Rutland Square, Edinburgh, EH1 2BE. Any appeal against a decision relating to membership of one or more of the Schemes must be lodged with the Head of Certification, within 10 working days of the notification of that decision

The Schemes' Administrator will record all complaints received and undertake the administrative steps outlined below. The Schemes' Administrator will also maintain an overall record of complaints received and the resolution of these.

The Head of Certification has overall responsibility for co-coordinating the response to any complaint received, by requesting and collating information, convening meetings and notifying relevant parties.

If, on initial investigation, the Head of Certification considers the nature of the complaint to be sufficiently serious and considers the complaint to be well founded (for example an allegation of fraud) the Head of Certification should immediately suspend the Auditor.

If, as may be likely, the Auditor is also a member of a Professional Body and the Head of Certification considers that the nature of complaint has wider implications, with regard to the Auditors professional conduct, then the Head of Certification must pass on the complaint to the relevant body and await the outcome of their procedures before instigating further proceedings within the Scheme.

All other complaints will be considered by the Review Panel under the chairmanship of the Head of Certification.

9.1 Time Scales

It is important that complaints are dealt with as quickly as possible. The Head of Certification has the responsibility of notifying BSD on receipt of a complaint and the subsequent steps taken to resolve that complaint (on the part of RIAS-regs) within the time limits prescribed in the Scottish Governments Scheme Providers Handbook which allows no more than²:

- i. 20 days between receipt of a complaint and notification to the Building Standards

² <http://www.scotland.gov.uk/Topics/Built-Environment/Building/Building-standards/profinfo/cert/certhandbook>

- Division that a complaint is to be heard by the certification disciplinary panel
- ii. 40 days between notification that a complaint is to be heard by the certification disciplinary panel and determination of the complaint
 - iii. 10 days between notification of the determination of the complaint and receipt of notification of an appeal
 - iv. 10 days between receipt of notification of a decision on membership and notification that an appeal is to be lodged
 - v. 40 days between receipt of notification of an appeal and determination of the appeal

The above timescales place the onus on RIAS-regs to respond to a complaint including seeking information from both the subject of the complaint and the complainant. In seeking information, the Schemes have a duty to inform both parties that a failure to provide such information, within a timescale which allows the complaints procedure to be completed within the requirements of the Scottish Government, may mean that the subject of the complaint is unable to mount a robust defence or that the complaint itself is ruled out as unfounded or malicious.

The Review Panel is free to determine the most appropriate mechanism by which to assess and determine on any complaint on a case by case basis and are responsible for deciding whether a complaint:

- merits consideration, or
- may be resolved by requiring specific work or other action (except fines), or
- should be rejected

The Review Panel may reject a complaint on the grounds that:

- it does not directly concern Certification of Design under the Building (Scotland) Act 2003
- it is outside the scope of the relevant Scheme
- insufficient information has been provided on the part of the complainant from which to reach a decision

The Review Panel may defer their decision if insufficient information has been provided by the subject of the complaint.

If the complaint appears to concern a simple mistake, the Review Panel may recommend that the Auditor be suspended until they have satisfactorily completed certain work within a specified time.

If the Review Panel, consider that the actions of the Auditor have compromised the Quality Assurance Procedures and/or have compromised the provision of the Schemes then they must permanently suspend the Auditor.

Decisions of the Review Panel are, subject to appeal, binding on the subject of the complaint. Such an appeal must be made within 10 working days to the Secretary and Treasurer of the RIAS.

10. Complaints Received by the Scheme Provider Regarding the Scheme Provision or the Conduct of Individuals.

The Scheme will deal with written complaints in as timely a manner as possible, while ensuring each of the steps outlined below are followed. This section deals with complaints about:

- the provision of the Scheme - documents, management, procedures etc, and
- individuals such as the Head of Certification, Scheme Administrator, the Technical Advisor, IT manager and anyone else with a responsibility for Scheme delivery

All complaints must be made in writing, detailing the substance of the complaint, to the Secretary and Treasurer of the RIAS, 15 Rutland Square, Edinburgh, EH1 2BE.

To ensure independence, a RIAS Administrator unconnected with the Schemes will record all complaints received and undertake the administrative steps outlined below. The RIAS Administrator will also maintain an overall record of complaints received and the resolution of these.

The Secretary and Treasurer has overall responsibility for co-coordinating the response to any complaint received, by requesting and collating information, convening meetings and notifying relevant parties.

If on initial investigation the Secretary and Treasurer considers the nature of the complaint to be sufficiently serious and considers the complaint to be well founded (for example an allegation of fraud) the Secretary and Treasurer should seek an immediate decision on the course of action to take from the RIAS President and the RIAS Governance & Policy Committee.

Any Member of the Governance & Policy Committee and/or the RIAS President, must declare any conflict or potential conflict of interest, if they are so aware, and must take no part in assessing the complaint.

10.1 Time Scales

It is important that complaints are dealt with as quickly as possible. The Secretary and Treasurer has the responsibility of notifying BSD on receipt of a complaint and the subsequent steps taken to resolve that complaint (on the part of the RIAS) within the time limits noted below:

- i. 20 days between receipt of a complaint and notification to the Building Standards Division that a complaint is to be heard by the President and Vice-Presidents of the RIAS
- ii. 40 days between notification that a complaint is to be heard by the President and the RIAS Governance & Policy Committee of the RIAS

The President and RIAS Governance & Policy Committee of the RIAS are free to determine the most appropriate mechanism by which to assess and determine on any complaint on a case by case basis. There is no right of appeal to their decision.