RAeS Regulations: Annex C (Procedures for Preliminary Investigations, Disciplinary & Appeals)

Procedures for Preliminary Investigations, Disciplinary and Appeals Processes

Preliminary Investigations

1. The **Trustee** appointed under regulation 1.9.1 to consider whether a prima facie case is disclosed by the material before him shall consider only the possibility that improper conduct could be established, not the probability. He may seek clarification from the source of the material.

2. The **Investigation Committee** shall consider whether there is a case to answer. The Committee may make enquiries by correspondence or otherwise. The member who is the subject of the material before the Committee shall be entitled but not obliged to comment on that material.

3. At the conclusion of its enquiries the Investigation Committee shall decide whether or not there is a case to answer. If there is no case to answer, the complaint is dismissed on the basis that the committee is satisfied that there is no prima facie case of improper conduct or that the allegation is trivial or cannot be pursued for lack of evidence or that it is not in the interests of the Society. The subject and the Chairman of the Board of Trustees and the President shall be informed.

4. If there is a case to answer, the Chairman of the Board of Trustees and the President shall be informed and the subject shall be informed by a Notice of Complaint in writing within 21 days which shall include:
   4.1 The facts alleged
   4.2 Reference to any parts of a code of conduct alleged to be breached
   4.2 Notice that the complaint will be referred to a Disciplinary Committee for hearing on a date to be fixed.

   Copies of any witness statements and all other relevant documents shall be attached to the Notice.

5. It is then the responsibility of the Investigation Committee to prepare and present the case before the Disciplinary Committee. At the hearing the Committee may nominate one of its members or occasionally a lawyer to appear.

Disciplinary Process

6. The Chairman of the Board of Trustees forthwith upon notification of the Complaint shall proceed to appoint the Disciplinary Committee referred to in regulation 1.9.3.

7. The first duty of the Disciplinary Committee is to elect its chairman which may be effected without a meeting by any convenient means, including email. The chairman shall then forthwith inform the subject of the Complaint and the Investigation Committee of the names and grades of membership of the Disciplinary Committee.

8. After consulting the Investigation Committee and the subject or those acting for him the Disciplinary Committee shall in its absolute discretion give 28 days' notice (or such shorter time as the parties agree) appointing a place date and time for hearing the Complaint.

9. Under regulation 1.10.8 the Disciplinary Committee has the power to regulate its own practice and procedure which at the hearing will permit each party to put its case and cross-examine opposing witnesses.

10. At the conclusion of the hearing the Disciplinary Committee may announce its decision and will in any event deliver it in writing with reasons within 28 days.

11. In reaching its decision the burden of proof is on the Investigating Committee and the
standard of proof is the balance of probabilities unless dishonesty is alleged when the Disciplinary Committee must be sure.

12. If the case has not been proved the Disciplinary Committee will dismiss it.

13. If the case has been proved the sanctions available are those specified in the By-Laws, namely suspension (which in practice means a fixed period) or termination of membership. There is no power to order either party to pay costs.

**Appeals**

14. A member may appeal the decision of a Disciplinary Committee on any one or more of the following grounds
   - The decision was against the weight of the evidence
   - The procedure was unfair
   - The decision was irrational
   - The sanction was disproportionate.

15. A member desiring to appeal must serve on the Chairman of the Board of Trustees and the Chairman of the Investigation Committee a Notice of Appeal within 21 days of receiving the written decision of the Disciplinary Committee stating which ground or grounds the member will support at the hearing.

16. The Chairman of the Board of Trustees forthwith upon receiving the Notice of Appeal shall proceed to appoint the Appeals Committee referred to in regulation 1.9.3

17. The first duty of the Appeals Committee is to elect its chairman which may be effected without a meeting by any convenient means, including email. The chairman shall then forthwith inform the member appealing and the Investigation Committee of the names and grades of membership of the Appeals Committee.

18. After consulting the Investigation Committee and the member appealing or those acting for him the Appeals Committee shall in its absolute discretion give 28 days’ notice (or such shorter time as the parties agree) appointing a place date and time for hearing the Appeal.

19. The Appeal shall be by way of rehearing and the procedure shall be the same as for the hearing below, as set out in paragraphs 9 to 13, mutatis mutandis. The Appeals Committee may uphold the decision of the Disciplinary Committee or substitute its own decision.

20. Any change to the subject member’s status in the Society shall not take effect until 30 days after the decision of the Disciplinary Committee or forthwith upon the decision of the Appeals Committee, whichever be later.

21. Unless the subject member requests it the Society will not in its discretion publicise the proceedings until after the decision of the Disciplinary Committee or the decision of the Appeals Committee, whichever be later and then only if the outcome is adverse to the subject member.

**Appeal to the Engineering Council**

22. In addition to the Appeal procedure listed above, where an expelled member has lost their Engineering Council registration as a result of the Disciplinary Process there is a right of appeal to the Engineering Council.

23. Such an appeal shall be conducted in accordance with the procedures set out in Engineering Council regulations which provide for the right to an oral hearing and the right of representation. Such an appeal shall however only lie on grounds of procedural unfairness or irregularity and Engineering Council shall not adjudicate on the substance of the case.