



Boat Safety Scheme Limited Quality System

Document Reference **BSSQA006**
Number:

Title: **Procedure for investigation of alleged
breaches of the BSS Examiner
Conditions of Registration**

Revision **1 of Version 7**

Scope **This procedure specifies the
methodology for investigating
complaints concerning alleged breach(es)
of the Boat Safety Scheme Examiner
Conditions of Registration**

**Reviewed and
authorised by** **The Directors of BSS Limited**

[19 December 2024 – Board #8]



BSS Quality Assurance Procedure BSSQA006

Procedure for investigation of alleged breaches of the BSS Examiner Conditions of Registration – Version implementation date 1 April 2024

1.0 Introduction and Interpretation

- 1.1 This BSSQA006 should be read alongside the BSS Examiner Conditions of Registration (“Conditions”). Unless the context requires otherwise, terms defined in the Conditions shall have the same meaning in this BSSQA006.
- 1.2 Complaints concerning alleged breach(es) of the Conditions may arise from a number of sources. Examples include complaints from owners of vessels liable to BSS Examinations, or participating Navigation and/or Harbour Authorities, members of the marine trade or other BSS Examiners. Information may also arise as a result of the BSS quality assurance arrangements, including performance monitoring.
- 1.3 The BSS General Manager will be responsible for arranging for the appropriate investigation of alleged breaches as soon as practicable and for bringing substantiated complaints to the directors of BSS (“Directors”).
- 1.4 In the assessment, investigation and determination of any alleged breach of the Conditions the identity of an individual BSS Examiner shall remain confidential within BSS and to those directly involved in the investigation of the alleged breach, except where disclosure is deemed essential for reasons of public safety.

2.0 Initial Assessment

- 2.1 At the outset, persons submitting a complaint shall receive an acknowledgement and shall be requested to provide, in writing, as much initial information as possible as to the nature of the complaint.
- 2.2 If the initial information is of a nature suggesting there might be an immediate risk to persons or property, the BSS General Manager may initiate any of the actions mentioned at paragraph 3.2 below prior to his initial contact with the BSS Examiner.
- 2.3 The BSS General Manager will assess the initial information and determine what level of investigation, if any, is required.
- 2.4 The BSS Examiner concerned shall be advised verbally and then in writing of the nature of the complaint and any associated allegations, and shall be invited to provide an initial response to the matters raised without undue delay.
- 2.5 If, after assessment of the initial information there is no apparent evidence of a breach of the Conditions, the complainant and BSS Examiner will be advised in writing that no further or formal action is to be taken by BSS.

- 2.6 If, after assessment of the initial complaint and information and the BSS Examiner's initial response, the BSS General Manager decides that any substantiated issues are of a minor nature and are acknowledged by the BSS Examiner as shortcomings, he/she shall give a verbal or written warning to the BSS Examiner as to their future observance of the Conditions.

Where appropriate, the BSS General Manager shall take any necessary action regarding the continuing validity of a BSSC. The matter shall be reported to the Directors and the complainant and/or owner of the vessel shall be advised of the decision.

- 2.7 If, after assessment of the initial information and the BSS Examiner's initial response, the BSS General Manager is of the opinion further investigation is warranted, any of the actions mentioned at paragraph 3.0 below may be initiated. The BSS General Manager shall inform the BSS Examiner, complainant, owner of the vessel and any Navigation and/or Harbour Authority which has issued a licence (or equivalent) to use the vessel, of the actions taken.

- 2.8 Where the BSS General Manager decides that any substantiated issues arise in a situation where:

2.8.1 in the opinion of the BSS General Manager that continuing, further or additional breaches of the Conditions of Registration are likely to occur; or

2.8.2 the Examiner is in debt to the BSS, then the BSS General Manager may temporarily suspend the BSS Examiner's registration as a BSS Examiner until such time as that situation is deemed no longer to exist.

- 2.9 Any temporary suspension imposed by the BSS General Manager shall be reported to the Directors to whom the BSS Examiner has an immediate right of appeal. The BSS Examiner shall be advised that they have a right to attend a meeting at which the appeal is to be considered, to be accompanied by a friend, professional body representative, to call witnesses in support of their case, and/or be legally represented.

- 2.10 Following consideration of the BSS General Manager's report or following an appeal, the Directors may uphold or lift the temporary suspension, or identify the conditions that must be met for the suspension to be lifted.

3.0 Investigation

- 3.1 If the BSS General Manager, having assessed the initial information, decides that the matter warrants further enquiries he/she may, as the circumstances require obtain any relevant evidence, including that in written and photographic form. The objective shall be to establish the facts of the case, in so far as is reasonably possible.

- 3.2 Where the warranted further enquiries concern allegations of an BSS Examiner's incorrect compliance decisions, inadequate checking procedures or errors of judgement made regarding BSS Requirements, the BSS General Manager may:

3.2.1 commission a BSS Quality Control Assessor to carry out a re-examination of the vessel in question; and/or

3.2.2 commission a BSS Quality Control Assessor to carry out a full investigation into the alleged breach(es).

- 3.3 If, following an investigation into the facts, the BSS General Manager forms the opinion that there appears to be a case to answer, the BSS Examiner shall be provided with a summary of the facts as found to date and invited to provide a response to each allegation in light of that summary, with copies of any documents relied on, within fourteen days.
- 3.4 If, following any re-examination of a vessel, BSS requirements faults have been found which it is reasonable to believe were present at the time of the issue of any BSSC, the BSS Examiner shall be provided with a written "Notice of Faults" setting out the faults found and shall be invited to provide responses, including copies of their examination records, to the matters raised within fourteen days.
- 3.5 The BSS Examiner shall be provided with a reference to the web pages where the Conditions and these procedures are displayed, and printed copies shall be made available upon request. Their attention shall be drawn to the actions available to the Directors in response to any substantiated allegations.
- 3.6 Any complainant shall be advised that further enquiries are being made and as far as practicable given an indication of the time likely to be taken to bring the matter to a decision.
- 3.7 The owner of the vessel in question shall be provided with a copy of any Notice of Faults.
- 3.8 The BSS General Manager shall evaluate the summary of the facts as found to date in light of any response provided by the BSS Examiner and any written Notice of Faults and shall take appropriate actions. Appropriate action in the circumstances may include:
 - 3.8.1 temporary suspension of the BSS Examiner's authorisation to issue BSSCs (pending full consideration of the matter by the Directors under the provisions of paragraph 5.0 below); and/or
 - 3.8.2 where disclosure is deemed essential for reasons of public safety, making known the name of the BSS Examiner; and/or
 - 3.8.3 cancellation of the validity of any BSSC issued for the vessel.
- 3.9 Where actions involve temporary suspension of the BSS Examiner's authorisation to issue BSSCs the matter shall be reported to the Directors to whom the BSS Examiner has an immediate right of appeal. The BSS Examiner shall be advised that they have a right to attend a meeting at which the appeal is to be considered, to be accompanied by a friend, professional body representative, to call witnesses in support of their case, and/or be legally represented.
- 3.10 Following consideration of the BSS General Manager's report or following an appeal, the Directors may uphold or lift the temporary suspension or identify the conditions that must be met for the suspension to be lifted.
- 3.11 Where actions involve making known the name of the BSS Examiner, the BSS General Manager shall obtain the prior authorisation from the Directors.
- 3.12 Where actions involve cancellation of the validity of a BSSC the complainant, owner of the vessel, any Navigation and/or Harbour Authority which has issued any licence (or equivalent) for the vessel to be navigated and the BSS Examiner, shall be advised.
- 3.13 A risk assessment may also result in other boat owners who have had their boat examined by the same BSS Examiner being contacted about possible inadequacies in their boat examination.

4.0 Determination by the BSS General Manager

- 4.1 If, after assessment of the established facts there is no apparent evidence of a breach of the Conditions, with the approval of a Director, the BSS General Manager will advise the BSS Examiner, complainant, owner of the vessel, and Navigation and/or Harbour Authority (if relevant) in writing that the complaint is unsubstantiated and that no formal action is to be taken against the BSS Examiner by BSS.
- 4.2 If, after investigation and consideration of the BSS Examiner's response, the BSS General Manager decides that any substantiated issues are of a minor nature, and are admitted by the BSS Examiner, with the approval of a Director, the BSS General Manager shall give a verbal or written warning to the BSS Examiner as to their future observance of the Conditions. Where appropriate, and with the Approval of a Director, the BSS General Manager shall take any necessary action regarding the continuing validity of a BSSC. The complainant and/or owner of the vessel shall be advised of the decision.
- 4.3 Where an investigation, and the BSS Examiner's response to it, indicates substantiated breaches of the Conditions other than of a minor nature, detailed report shall be produced by the BSS General Manager for consideration by the Directors. A copy of this report shall be provided to the BSS Examiner. Before the report is put to the Directors for review and determination, the BSS Examiner shall be given a further opportunity to comment and/or provide further written evidence.
- 4.4 In the event the BSS Examiner has failed to provide any relevant information, paperwork or adequate responses to individual allegations concerning any alleged breaches, or in the event that a BSS Examiner fails to co-operate with the BSS General Manager so that they may not be able to investigate the alleged breach further, the BSS General Manager shall normally determine their investigations on the basis of any other evidence that has been provided to them.
- 4.5 When being provided with a copy of any detailed report as mentioned above the BSS Examiner shall be advised that they have a right to attend the case review hearing at which the report is to be considered, to be accompanied by a friend, professional body representative, to call witnesses in support of their case, and/or be legally represented. The BSS Examiner shall be reminded of what actions the Directors can take in response to substantiated issues.

5.0 Determination by the Directors

- 5.1 Where a detailed report is produced by the BSS General Manager for consideration by the Directors under paragraph 4.3, the Directors shall consider all aspects of the allegations, including any further submissions made by the BSS Examiner in writing or in person, at a case review hearing and make a determination.

The Directors shall set up a panel to attend the case review hearing and consider the matter and make recommendations to the Directors. Such a panel will be constituted from at least one Director (who shall chair the panel), one Navigation and/or Harbour Authority representative, one BSS Examiner representative, and one user group representative.

The final decision regarding determination and disposal of the case will remain with the Directors.

- 5.2 If, after consideration of all the aspects of the allegations at the case review hearing, the Directors determine that the allegations of a breach of the Conditions are not substantiated, the BSS Examiner, complainant, owner of the vessel, and Navigation and/or Harbour Authority (if relevant) will be advised of the determination and that no formal action is to be taken against the BSS Examiner by BSS. The Directors will aim to reach a determination and recommendation on a unanimous basis.
- 5.3 In the event the BSS Examiner has failed to provide any relevant information, paperwork or adequate responses to individual allegations concerning any alleged breaches, or in the event that a BSS Examiner failed to co-operate with the BSS General Manager's investigation or attend the case review hearing, the Directors shall normally arrive at their determination on any other evidence that has been provided to them and shall be entitled to draw conclusions from the evidence on the basis of a balance of probabilities.
- 5.4 Action that may be taken by the Directors in response to substantiated breaches of the Conditions may include:
- 5.4.1 termination of the BSS Examiner's registration as a BSS Examiner and the agreement between BSS and the BSS Examiner relating to such registration; or
 - 5.4.2 temporary suspension of the BSS Examiner's registration as a BSS Examiner, with a requirement to undertake further training and satisfactory completion of a full competence re-assessment; or
 - 5.4.3 temporary suspension of the BSS Examiner's registration as a BSS Examiner pending satisfactory completion of a full or partial competence re-assessment; or
 - 5.4.4 temporary suspension of the BSS Examiner's registration as a BSS Examiner; or
 - 5.4.5 formal written cautioning of the BSS Examiner with or without a requirement to give an undertaking as to their future observance of all the requirements of BSS; or
 - 5.4.6 cautioning the BSS Examiner as to the circumstances of their particular shortcomings in the application of BSS's requirements.
- 5.5 In considering appropriate actions to take in response to any substantiated breaches of the Conditions the Directors may take into account any actions taken in response to previous substantiated breaches of the Conditions.
- 5.6 In considering appropriate actions and for reasons of wider public safety, in cases of substantiated breaches of the Conditions the Directors may:
- 5.6.1 instruct the BSS General Manager to conduct an assessment of the wider risks associated with the findings in relation to the BSS Examiner's proven shortfall in the application of the BSS requirements. This may involve disclosure of the name of the BSS Examiner;
 - 5.6.2 upon review of the results of the assessment at 5.6.1 the Directors may decide to instruct the BSS General Manager and/or advise Navigation and/or Harbour Authorities to take further necessary actions in the interests of public safety. This may involve wider disclosure of the name of the BSS Examiner; and/or
 - 5.6.3 report the outcome to any competent regulatory body to whom the BSS Examiner has responsibilities, such as Gas Safe Register, where the shortfall in performance is relevant to the remit of that regulatory organisation.

6.0 Appeals

- 6.1 A BSS Examiner shall have the right of appeal against any decision of the Directors in response to breaches of the Conditions. Any such appeal must be made in writing, and within fourteen days of the date of the notification of the Directors' decision. Appeals shall be decided by an independent arbitrator appointed for the purpose by the Centre for Effective Dispute Resolution (CEDR). The decision of that person will be final and binding on all parties. Appellants shall bear the costs of any unsuccessful appeal process.
- 6.2 The complainant shall be advised in writing of the decision of the Directors after expiration of the period allowed for the lodging of an appeal or completion of the appeal process, whichever is the later.

7.0 Records

- 7.1 Papers relating to alleged breaches of the Conditions shall be retained for a period as long as BSS deems necessary, depending on the nature and seriousness of the breach and in accordance with the applicable data protection legislation, and in any case no longer than seven years from the date of completion of any investigation or decision of the Directors.