



**Guide to the JIB Disputes  
Procedure for a Breach of National  
Working Rule 17**



**Joint Industry Board**

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# **Guide to the JIB Disputes Procedure for a Breach of National Working Rule 17**

## **1. BACKGROUND**

The JIB's Disputes Procedure is the dispute resolution mechanism for the collective agreement of the electrical contracting industry. The aim of the Disputes Procedure is to provide a fast and effective dispute resolution procedure for the industry.

This Guide is strictly for those cases relating to an alleged breach of National Working Rule 17 ("Rule 17") brought by a Unite the Union Regional Officer. These claims must be submitted using the Disputes Procedure Application Form for a Breach of National Working Rule 17.

If an individual wishes to raise a claim for a breach of Rule 17 in relation to their employment, this should be completed on the normal Dispute Procedure Application Form and with use of the Guide to the Disputes, Mediation and Conciliation Procedure.

Only Unite the Union, as a constituent party to the JIB, is permitted to bring a claim for a breach of National Working Rule 17 against a JIB member company in line with Rule 17.2.2.6.

## **2. INTRODUCTION**

Claims that a JIB member company is in breach of Rule 17 must be lodged while the Company is alleged to be in breach. Prior breaches since rectified will not be eligible for consideration through the Procedures.

Under the Disputes Procedure there is no absolute right to a hearing. Applications are put to the Chairman and Deputy Chairman of the National Disputes Panel together with the company's response and available documentation. They jointly consider the claim and decide whether or not it will proceed. Discretion lies solely with them. This is detailed below.

Where the National Disputes Panel agree a breach of Rule 17 claim should proceed, these do not go to a Dispute Committee but rather to an Investigatory Committee. The Investigatory Committee will refer the claim to the Disciplinary Committee for a decision as to what sanction, if any, is reasonable in the circumstance.

Before lodging a claim through the Dispute Procedures, the points detailed under each of the specific National Working Rules below should be investigated and where possible evidence documented to include within the Dispute Application.

## **3. REPRESENTATION UNDER THE JIB MACHINERY**

It is permitted that the company may be represented by legal bodies, or can put their cases themselves. However, no employers' association other than the ECA will be permitted to attend a hearing in a representational capacity.

#### **4. PRE-CLAIM MEDIATION**

The parties are encouraged to attempt to resolve issues informally. The JIB offers a pre-claim mediation service if the parties wish to seek resolution of an issue prior to formally lodging a claim. A request should be made through the JIB's Industrial Relations Department.

#### **5. LODGING A CLAIM**

The Unite the Union Regional Officer must submit a claim on the Disputes Procedure Application Form for a Breach of Rule 17 (AF) specifying each alleged breach with the appropriate evidence for each claim. The form is available on the JIB website or can be requested via [ir@jib.org.uk](mailto:ir@jib.org.uk).

The AF identifies some of the information which will be needed to submit a claim. The below sections gives further guidance on the detail which would be expected in such a submission.

##### **a) Rule 17.1 – Sub-contracting**

To bring a claim under Rule 17.1, the identity of the company which has been sub-contracted for either electrical work or cabling and jointing work must be included. The nature of the work being undertaken by the sub-contractor and the duration the sub-contractor is likely to be on the project should also be included.

The JIB website has a facility to "Find a Member" and this should be utilised to establish whether the Company is a JIB member company before submitting the claim. The Register of Cabling and Jointing Companies is available on the JIB website under the Register sub-section in the Employer's area.

##### **b) Rule 17.2 and 17.3 – Employment Business and Self-Employed Labour**

It is accepted that firms within the industry do have short-term needs for labour which for practical purposes cannot always be met by directly-employed personnel.

If a Unite the Union Regional Officer is bringing a claim under Rule 17.2 or 17.3, it is expected the following points will be established and details included in the AF with appropriate documentary evidence (where available):

- The nature of the work undertaken on the project (e.g. new build. refurbishment)
- The duration the contractor is likely to be on the project
- The projected peak labour force including breakdown of operatives, trainees and apprentices
- The number of operatives on the project/site and those operating through employment businesses, self-employed or other models
- The identities of the employment businesses being utilised on the project/site and whether they are subscribers to the JIB Industrial Information Service (IIS) – as per the JIB website
- The period of time temporary labour will be engaged

- Whether all operatives hold valid ECS cards
- The Company's recruitment policy
- If the Company has taken any steps to increase direct labour (e.g. fixed term contracts, cross-hiring or labour loans, contacting Unite)
- If there have been recent redundancies or if future redundancies are planned by the Company, and
- Are there any specialist skill requirements from those engaged through employment businesses?

## **6. SEEKING A RESPONSE**

Upon receipt of the AF the JIB will send copy of the AF and the associated documentation to the company for response via a company's Reply Form (RRF). Such response must be within 14 days and include accompanying documentation.

If the company is a member of the ECA the JIB will automatically send a copy to the ECA's Employee Relations Department unless advised by the company otherwise. Where the company is represented then correspondence will be sent by the JIB to both the company and their representative.

## **7. MEDIATION MEETING**

Once the company has returned the RRF the parties will be invited to a mediation meeting which will include the Unite the Union Regional Officer, the company and their representative(s) (where applicable) together with a representative(s) from the JIB.

Mediation is not compulsory but in practice, almost every case involves this informal meeting to try and resolve the issue. Consistently over 95% of cases are regularly resolved by mediation. The mediation meeting will take place at the earliest available date.

## **8. REFERRAL TO THE CHAIRMAN AND DEPUTY CHAIRMAN OF THE NATIONAL DISPUTES PANEL**

Upon receipt of the RRF the JIB will send the AF, RRF and additional relevant paperwork to the Chairman and the Deputy Chairman of the National Disputes Panel for their views as to whether or not the case merits an Investigatory Committee Hearing. They jointly consider the claim and decide whether or not it will proceed. There is no absolute right to a hearing. If the Chairman and Deputy Chairman decide the case merits the setting up of an Investigatory Committee, the JIB will confirm the mediation meeting and set a date for the Investigatory Committee hearing.

If the Chairman and Deputy Chairman decide that the case presented does not have a reasonable chance of success, the dates for the mediation meeting and the Investigatory Committee will be cancelled and the reasons why the Application was rejected will be conveyed to the parties in writing.

There is no appeal stage if the case is rejected by the Chairman and Deputy Chairman. It is for this reason the Chairman and Deputy Chairman may ask for further information to be provided by the Unite the Union Regional Officer and why it is imperative all relevant evidence is included in the AF.

## **9. WHAT IS AN INVESTIGATORY COMMITTEE**

The Investigatory Committee comprises of two members of the National Disputes Panel – one from the ECA and one from Unite – unconnected with the dispute. Both members act independently on behalf of the JIB and the industry. The Investigatory Committee members will decide before the hearing which of them will act as Chairman and which one will be Deputy Chairman.

The Investigatory Committee act as fact finders to establish the relevant information about the alleged breaches to provide a recommendation to the Disciplinary Committee, who will ultimately make a just and equitable decision as to whether there has been a breach of Rule 17, and if they find this, what sanction will be made. This investigation will be undertaken by questioning the parties as to the circumstances surrounding the alleged breach(es) and by testing of the evidence.

## **10. PAPERWORK AND PREPERATION FOR THE HEARING**

Any documentation that will be referred to at the Investigatory Committee Hearing **MUST** be received by the JIB by no later than 10 working days prior to the hearing. Any paperwork submitted after this date will only be accepted with the consent of the Investigatory Committee. The JIB will prepare the bundle of documentation to refer to within the Investigatory Committee hearing.

For ease of reference at the Investigatory Committee Hearing, the documentation submitted by both parties will be collated into a single set of papers with a list of contents at the front and each page will be numbered. The JIB will send out a copy of this set of documentation to the Investigatory Committee, both parties and, where the parties have a representative, to their representative prior to the hearing date.

Either party may request further and better particulars either directly or, preferably, through the JIB. The parties must have due regard that any paperwork which may be referred to must be submitted to the JIB in line with the requirements for the JIB to prepare the bundle.

## **11. THE HEARING**

### **a) The role of the JIB Officer**

It is the JIB Officer's role to act as Secretary to the hearing and to advise on the procedure, the application and interpretation of the JIB Agreement and employment legislation.

## **b) Conducting the Hearing**

The procedure will be explained in full by either the Chairman or the Secretary at the Investigatory Hearing.

The Chairman or the Secretary will start by clarifying the issues with the parties. It is extremely important that this is done at this stage to ensure that only the relevant matters are considered. Claims included in the AF may have been settled. Therefore the Investigatory Committee will only be looking at the outstanding issues.

An Investigatory Hearing is conducted in a similar manner to a Dispute Hearing in that the following stages are followed:

- (i) The outstanding issues are clarified
- (ii) The Unite Officer presents the claim, followed by questioning by the Company or the Chairman and Deputy Chairman
- (iii) The Company presents its response, followed by questioning by the Unite Officer or the Chairman and Deputy Chairman
- (iv) Each party is given the opportunity to give a summary.

The Investigatory Committee will refer the findings to the Disciplinary Committee.

## **12. REFERRAL TO THE DISCIPLINARY COMMITTEE**

The Disciplinary Committee will make a decision based on the evidence and report provided from the Investigatory Committee as to whether there has been a breach of Rule 17 by the Company. This decision is made on the written evidence only as the parties will have already had the opportunity to present their case at the Investigatory Hearing.

If the Disciplinary Committee decides there is no case to answer, this will be confirmed to the parties and a full written decision produced.

If the Disciplinary Committee decides the Company has breached Rule 17 a Disciplinary Hearing will be held to consider sanctions in line with Rule 22. This will be decided with the Unite the Union Regional Officer and Company present with submissions made as to any mitigating factors which should influence the Disciplinary Committee in their decision as to the level of sanction.

Details on the Appeals Stages within the Disputes Procedure will be sent out in the letter accompanying the decision of the Disciplinary Committee.



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