

LEGAL SERVICES COMMISSION
REVIEW PANEL ARRANGEMENTS 2000

1. Background

These arrangements, which came into effect on 1 April 2000, are made under section 3(4) of the Access to Justice Act 1999 and Part D of the Funding Code Procedures. They provide for the creation of a Review Panel, the appointment from that Panel of Independent Funding Adjudicators, Independent Costs Assessors, Appeal Panels, Funding Review Committees and Cost Committees and the regulation of the proceedings of those appeals or Committees.

The arrangements were amended with effect from 2 April 2001, 1 April 2003 and 2 October 2006. Nothing in the amendments affects the validity of any appointments made or acts done prior to those amendments coming into effect.

2. Definitions

Annual General Meeting means the meeting of each Regional Panel referred to in paragraph 19.

Adjudicator means an Independent Funding Adjudicator

Appeal Panel means a three member panel appointed under these Arrangements

Assessor means an Independent Costs Assessor

Commission means the Legal Services Commission established under section 1 of the Access to Justice Act 1999.

Committee means a Funding Review Committee or a Costs Committee

Costs Committee means a Committee appointed under these Arrangements to deal with applications for appeal or review against an assessment of costs (or a refusal of a request for prior authority to incur costs) by the Commission as provided for by regulations or contract and to exercise any jurisdiction in relation to costs exercisable by area committees under regulations made under the Legal Aid Act 1988.

Funding Review Committee means a Committee appointed under these Arrangements to deal with appeals or reviews of decisions by the Commission (other than in relation to an assessment of costs or a refusal of a request for prior authority to incur costs) as provided for by regulations, Funding Code Procedures or contract and to exercise any jurisdiction (other than in relation to costs) exercisable by area committees under regulations made under the Legal Aid Act 1988.

Independent Costs Assessor means a single member appointed under these Arrangements to deal with applications for appeal or review against an assessment of costs (or a refusal of a request for prior authority to incur costs) by the Commission as provided for by regulations or contract and to exercise any jurisdiction in relation to costs exercisable by area committees under regulations made under the Legal Aid Act 1988.

Independent Funding Adjudicator means a single member appointed under these Arrangements to deal with appeals or reviews of decisions by the Commission (other than in relation to an assessment of costs or a refusal of a request for prior authority to incur costs) as provided for by regulations, Funding Code Procedures or contract and to exercise any jurisdiction (other than in relation to costs) exercisable by area committees under regulations made under the Legal Aid Act 1988.

Region has the meaning set out in the Legal Services Commission Regional Arrangements 2000.

Regional Panel means those members of the Review Panel appointed to a particular Region in accordance with the provisions of these Arrangements.

Regional Panel Chair or **Vice Chair** means a person so appointed under paragraph 18.2

Review Panel means the panel created by these Arrangements from which:

- (a) Independent Funding Adjudicators, Independent Costs Assessors, and Appeal Panels, or in the alternative
- (b) Funding Review Committees and Cost Committees

shall be appointed.

Training Event means a training event run by the Commission (or a provider approved by the Commission) including training on the review procedures and role of the Adjudicators, Assessors, Appeal Panels or Committees.

3. Duties and Discretion of Regional Panel Chair and Director

3.1 In performing their duties and in exercising any discretion under these arrangements, the Regional Panel Chair and Director shall have regard to the guidance contained in the Annex to these Arrangements.

4. Review Panel

4.1 There shall be a Review Panel from which:

- (a) Independent Funding Adjudicators, Independent Costs Assessors, and Appeal Panels, or in the alternative
- (b) Funding Review Committees and Cost Committees

shall be appointed.

4.2 The Review Panel shall be made up of no fewer than 16 and no more than 120 (300 in the case of the London Region) members appointed to each Regional Panel.

4.3 Members of the Review Panel shall be appointed by the Annual General Meeting of the Regional Panel to which they are to be appointed.

4.4 The Regional Panel Chair may appoint temporary members of the Review Panel where in his or her view it is appropriate to do so for the exercise of the Review Panel's functions. Any such temporary member shall cease to be a member of the Review Panel at the date of the next Annual General Meeting unless he or she is appointed as a member by that Annual General Meeting under paragraph 4.3.

4.5 No person may be appointed under paragraph 4.4. who having been appointed on a previous occasion as a temporary member did not have his or her appointment renewed at the next Annual General Meeting.

4.6 Unless otherwise authorised by the Commission, only members who meet the Commission's criteria for membership as published from time to time may be appointed (including as temporary members) to the Review Panel.

5. Applications for membership of the Review Panel

5.1 Directors shall secure applications for membership of the Review Panel by;

(a) notification to the General Council of the Bar and to local law societies in the Region for which they are responsible; and

(b) subject to any directions given by the Annual General Meeting, such other measures (if any), as they consider practicable and reasonable.

6. Appointing Assessors and Adjudicators & Convening Funding Review Committees and Cost Committees

6.1 The Director will be responsible for

(a) appointing Assessors and Adjudicators and, where necessary, Appeals Panels, or in the alternative

(b) the convening of Committees and issuing agendas.

6.2 Matters of Funding shall be dealt with by Independent Funding Adjudicators. Matters of Costs shall be dealt with by Independent Costs Assessor.

6.3 When convening any Committee, the Director shall specify whether that Committee is a Funding Review Committee or a Costs Committee and shall separately indicate those cases (if any) in respect of which the Committee will be exercising an area committee jurisdiction under the Legal Aid Act 1988 and regulations.

6.4 The Director shall maintain:

- (a) a list of members within his or her Regional Office who are best qualified among those members to be Chairs of Appeal Panels or Committees, and
- (b) separate lists of members within his or her Regional Panel who have specialist experience or knowledge in particular areas of law and types of proceeding.

The Annual General Meeting may give directions as to the maintenance and content of such lists. Subject to any such directions, where any question arises as to entry on or removal from a list, that question shall be resolved by the Regional Chair.

6.5 When appointing an Adjudicator, Assessor, an Appeal Panel or convening any Committee, the Director shall select members in rotation from the Regional Panel, subject to the guidance set out in the Annex to these Arrangements.

6.6 Where, exceptionally, it appears to the Regional Panel Chair to be in the interests of good administration for the procedure in paragraph 6.4 and the guidance thereto not to be followed (having regard to matters arising from the agenda such as potential conflicts of interest or the exceptional complexity of the subject matter) then the Regional Panel Chair may select the Adjudicator or Assessor, or in the alternative members of a Committee. He or she may do so by selection of such members of the Review Panel (including members from other Regional Panels) as he or she considers to be most appropriate to deal with the matters on the agenda.

6.7 Each Committee shall elect a chair of the day from among the members of the Committee present.

7. Reasons

7.1 It is the responsibility of the Assessor, Adjudicator, the chair of an Appeal Panel or the chair of each Committee, to ensure that proper and adequate reasons are given for decisions.

8. Clerks

8.1 Each Appeal Panel or Committee shall be assisted by a clerk who will be a member of the Commission's staff. The role of the clerk is to assist the Appeal Panel or Committee in performing its functions, but not to take part in the decision making process. The clerk must record the minutes of the meeting, the decisions made by the Appeal Panel or Committee and the reasons for them.

9. Minutes

9.1 Every Appeal Panel or Committee, shall keep minutes of its proceedings with the names of members present at each meeting.

9.2 The chair of any meeting is responsible for ensuring that minutes of the meeting are properly recorded and signed by him or her.

10. Conflict of Interest

10.1 It is the responsibility of each Assessor, Adjudicator, Appeals Panel member or Committee member to be alert to the possibility in any matter of a conflict of interest and, if he or she identifies a conflict or possible conflict to declare it forthwith.

10.2 If any Assessor or Adjudicator has a conflict of interest in any appeal allocated to them, he or she shall return the papers to the Regional Office for re-allocation to a different Assessor or Adjudicator.

10.3 If any member of an Appeal Panel or Committee, has a conflict of interest in any matter he or she shall withdraw entirely from the meeting while the matter is considered and shall not return until the Panel or the Committee permits them to do so.

10.4 The minutes of each meeting shall record the names of any member who has, or has declared, a conflict of interest or potential conflict of interest, the matter in respect of which the conflict or potential conflict of interest arose and what steps were taken in respect of that conflict or potential conflict of interest.

11. Retirement

11.1 On 31 March each year, one fifth (or if the number of members is not a multiple of 5, then the nearest to one fifth) of the members each Regional Panel shall retire from the Review Panel.

11.2 The members so to retire shall be those who on 31 March have been members for the longest period since they were last appointed or re-appointed. If two or more such members have been members for an equal time both or all such members shall retire.

12. Re-appointment

12.1 Every retiring member shall be eligible for re-appointment.

12.2 The provisions of paragraphs 4.2 to 4.6 inclusive shall apply to the re-appointment of members.

13. Lapse of membership.

13.1 The membership of any member of the Review Panel who has not attended a Training Event before his or her appointment will automatically lapse unless that member attends a Training Event within 12 months of the date of such appointment.

13.2 Any member whose Review Panel membership has lapsed in accordance with paragraph 13.1 will be eligible for re-appointment if he or she subsequently attends a Training Event.

14. Resignation and notice

14.1 A member of the Review Panel may resign by giving two months notice in writing to the appropriate Regional Director.

14.2 Review Panel members must notify the Director responsible for their Regional Panel if they cease to be in private practice or of any other matter which is material to their membership of the Review Panel, such as any disciplinary findings made against them or any bankruptcy proceedings.

15. Disqualification

15.1 The membership of any member of the Review Panel is terminated by disqualification if he or she makes a composition with his creditors or a receiving order in bankruptcy is made against him or her or he or she becomes of unsound mind.

15.2 Any disqualification under paragraph 15.1 will take effect at the expiry of 14 days from the date of service of a notice by the Regional Panel Chair specifying the grounds of disqualification.

16. Removal from Office

16.1 If it appears to the Director that any Regional Panel member either:

- (a) no longer meets the criteria for the appointment of Review Panel members; or
- (b) has misconducted him or herself in relation to his or her duties as a Review Panel member;

the Director may make a written report to that effect to the Regional Panel Chair for a Region other than that in which the Regional Panel member has been appointed.

On receipt of a report under paragraph 16.1 the Regional Panel Chair may, if he or she decides that the grounds in 16.1 (a) or (b) have been established, remove the member from office by giving notice to that member with reasons and informing the Director accordingly.

16.3 No member of the Review Panel shall be removed from office under paragraph 16.2 unless the written report upon which the decision to remove is based has been disclosed to them and they have been given a reasonable period (of not less than 21 days) after such disclosure to make representations to the Regional Panel Chair.

16.4 The Regional Panel Chair may remove from office any member of the Regional Panel who having been given reasonable notice of allocation of an appeal or attendance of an Appeal Panel has, without the consent of the Director or Regional Panel Chair who allocated the appeal or convened the Appeal Panel either,

(a) without securing the re-allocation of an appeal or attendance of a substitute member failed to conduct an appeal or attend a meeting of an Appeal Panel or,

(b) failed twice consecutively to conduct appeals or attend meetings of Appeal Panels.

16.5 The Regional Panel Chair may remove from office any member of the Regional Panel who having been given reasonable notice to attend has, without the consent of the Director or Regional Panel Chair who convened the Committee meeting either,

(a) without securing the attendance of a substitute member failed to attend a meeting of a Committee or,

(b) failed twice consecutively to attend meetings of Committees.

17. Attendance Fees and expenses.

There shall be paid to any Review Panel members attending meetings or dealing with appeals and carrying out their functions under these arrangements such fees and such travelling and other proper expenses and subsistence allowances as the Commission may from time to time authorise.

18. Regional Panel meetings and Review Panel Chairs

18.1 It is the responsibility of the Director in consultation with the Regional Panel Chair to convene meetings (including Annual General Meetings) of his or her Regional Panel and to give written notice to members of such meetings.

18.2 At the first meeting of the Regional Panel after the coming into effect of these Arrangements and thereafter on the date of each Annual General Meeting (or on such other earlier date as it may determine), the Regional Panel shall elect a Regional Panel Chair and one Vice-Chair or two Vice Chairs (who shall exercise the functions of the Chair in his or her absence or unavailability) to hold office until the date of the following Annual General Meeting (or such earlier date as the Regional Panel may determine). Any Chair or Vice-Chair shall be eligible for re-election at the expiration of such period provided that no Chair or Vice-Chair shall hold office for more than 3 consecutive periods.

18.3 Any decisions taken by the Regional Panel shall be made by the majority of members present and voting and in the case of equality of votes, the chair of the meeting shall have a second or casting vote. In the absence of the Regional Panel Chair or Vice-Chair from any such meeting, a chair of the day should be elected by the members present from their numbers.

18.4 A temporary member of the Review Panel appointed under paragraph 4.4 may attend the Annual General Meeting that is to consider his or her appointment as a member but may not vote at that meeting unless and until he or she has been appointed as a member. He or she should not be present at the meeting during consideration of his or her appointment.

19 Annual General Meetings

19.1 An Annual General meeting shall be convened once in each calendar year. There should be no more than 18 months between the dates of any two Annual General Meetings.

19.2 The business of each Annual General Meeting shall normally (without limitation) include:

- the election of the Regional Panel Chair and Vice-Chair or Chairs.
- a review of the membership of the Regional Panel, including the appointment or re-appointment of members, and directions to the Director as to methods of securing new members
- a report by the Director on the administration and development of the Legal Services Commission in the relevant Region and nationally

and may include a training session, a review of the performance of the Committees and such other business as it, the Director or Regional Panel Chair considers appropriate.

Annex

LEGAL SERVICES COMMISSION CRITERIA AND GUIDANCE ON APPOINTMENTS TO THE REVIEW PANEL AND OF COMMITTEE CHAIRS

Review Panel - Criteria

1. The criteria which prospective members of the Review Panel must meet before they may be appointed are set out below. Applicants must be either
 - (a) a solicitor or a barrister and have three years experience of legal aid/CLS/CDS work since qualifying a solicitor or barrister with three years experience of legal aid / CLS / CDS work since qualifying, or
 - (b) if the applicant is from a supplier holding a General Civil Contract (Not for Profit), be an individual who is a Specialist Quality Mark supervisor.
2. An applicant who is a solicitor must not have any committee decisions currently recorded against them at the OSS or Consumer Complaints Service (Note: such committee decisions are kept by the OSS for five years).
3. An applicant who is a solicitor must not have any adverse findings or orders of the Solicitors Disciplinary Tribunal recorded against them. (Note: such committee decisions are kept by the OSS or Consumer Complaints Service without time limit).
4. An applicant who is a solicitor in private practice must hold a current practising certificate.
5. An applicant who is a barrister must be approved by the General Council of the Bar.

Review Panel - Guidance

In appointing members of the Review Panel, regard shall be had, so far as practicable:

1. To the desirability not only of retaining members with experience of Review Panel work, but also the desirability of bringing in new members.
2. To ensuring that Regional Panels include members with broad, general legal experience and members with specialist legal experience; and
3. To ensuring that Regional Panels include members from among groups who are in a minority in the legal profession such as women, members of ethnic minorities and people with a disability.
4. Any Review Panel member that is not a solicitor or barrister (i.e. is appointed under criterion 1(b) above) can only be selected to sit on a Committee for the purpose of hearing an appeal in relation to a costs assessment from a supplier holding a General Civil Contract (Not for Profit).

Selection of Assessor and Adjudicators by the Director – Guidance.

The members selected in rotation by the Director under paragraph 6.5 shall be the members next available in order from the Review Panel, save that:

- (1) Each appeal should be allocated to a single member who is the next available in order on the list of those considered best suited to deal with that appeal under paragraph 6.4(b)

Selection of Appeal Panels by the Director – Guidance

Where the matter to be reviewed is exceptionally complex, singularly high profile or where it is of extremely high value then an Appeal Panel should be convened. The members selected in rotation by the Director under paragraph 6.5 shall be the members next available in order from the Review Panel, save that:

- (1) Each Appeal Panel should include a member who is the next available in order on the list of those considered best qualified to be Chairs of Appeal Panel under paragraph 6.4(a)
- (2) the remaining members to be selected from those next available in order from the list of those best suited to deal with that appeal under paragraph 6.4 (b)

Selection of Committees by the Director – Guidance.

In the alternative where a Committee is to be convened the members selected in rotation by the Director under paragraph 6.5 shall be the members next available in order from the Review Panel, save that:

- (1) Each Committee should include a member who is the next available in order on the list of those considered best qualified to be Chairs of Committees under paragraph 6.4(a) (or where (3) below applies, for such list for a particular venue).
- (2) Where the agenda for a particular Committee hearing involves a particular speciality, one or more of the members selected may be those next available in order from the list for that speciality maintained under paragraph 6.4 (b) (or where (3) below applies, for the list for that speciality for a particular venue).
- (3) The Review Panel may for convenience of administration be subdivided into lists of members who attend Committees at particular venues, in which case the members selected should be those next available in order from the list for the venue at which the Committee is to sit.