

Special Controls Review Panel Arrangements 2010

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1. Background

These arrangements, which came into effect on *[date]* 2010, 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 Special Controls Review Panel, the appointment from that Panel of Appeal Panels, and the regulation of the proceedings of those Appeal Panels.

2. Definitions

“Annual General Meeting” means the meeting of the Special Controls Review Panel referred to in paragraph 15.

“Appeal Panel” means a three member panel appointed under these Arrangements.

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

“Panel Chair” means a person so appointed from time to time by the Commission.

“Vice Chair” means a person or persons so appointed by the Panel Chair.

“Review Panel” means the panel created by these Arrangements from which Appeal Panels shall be appointed.

“Training Event” means a training event run by the Commission including training on appeal procedures and role of the Appeal Panels.

3. Functions of the Panel

1. The Special Controls Review Panel (“the Panel”) is appointed under Rule A7 of the Funding Code Procedures (“the Procedures”). The purpose of the Panel, as laid out in Part D of the Procedures, is to:

- (a) provide advice on any issue referred to them the which is relevant to the funding or continued funding of the case;
- (b) provide a right of review of a decision by the Multi-Party Actions Unit or the Director of Special Cases Unit.

2. The Panel can consider all aspects of the case that are considered relevant to the funding including whether there is significant wider public interest.

4. Special Controls Review Panel

1. There shall be a Special Controls Review Panel from which Appeal Panels shall be appointed.

2. The Review Panel shall be made up of no fewer than 10 and no more than 50 members.

3. The Panel Chair shall appoint a Vice Chair or Chairs and both may appoint members of the Panel

4. Members of the Review Panel shall be appointed by the Panel Chair and Vice Chair or Chairs following nomination by the Director of the Special Cases Unit.

5. 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 to the Special Controls Review Panel.

6. The Panel will include representatives predominantly of the legal profession (Bar Council or Law Society), and at least one each from a consumer group (Consumers’ Association; National Consumer Council), and another public interest group (Justice, Liberty; Public Law Project).

5. Applications for membership of the Special Controls Review Panel

1. The Director of the Special Case Unit shall secure applications for membership of the Special Controls Review Panel by:

- (a) Notification to the General Council of the Bar and the Law Society;
- (b) Notification to consumer groups (Consumers' Association or National Consumer Council),
- (c) Notification to other public interest groups (Justice, Liberty or Public Law Project).

6. Review Panel-Criteria

The criteria which prospective members of the Review Panel must meet before they may be appointed are set out below.

1. Prospective members must be either:

- (a) A solicitor or a barrister and have three years experience of legal aid/CLS/CDS work since qualifying; or
- (b) A representative of a consumer group (Consumers' Association or National Consumer Council), or other public interest group (Justice, Liberty or Public Law Project).

2. A prospective member who is a solicitor must not have any committee decisions currently recorded against them at the OSS or Consumer Complaints Service and must not have any adverse findings or orders of the Solicitors Disciplinary Tribunal recorded against them.

3. An applicant who is a solicitor in private practice must hold a current practising certificate and an applicant who is a barrister must be approved by the General Council of the Bar.

7. Appointing Panel Members & Convening Appeal Panels

1. The Director of the Special Cases Unit will be responsible for nominating and securing the appointment of Panel Members, convening Appeals Panels, and issuing agendas.

2. The Director of the Special Cases Unit shall maintain:

- (a) a list of members who are best qualified among those members of the Special Controls Review Panel to be Chairs of Appeals Panels or Committees, and
- (b) separate lists of members of the Special Controls Review Panel who have specialist experience or knowledge in particular areas of law and types of proceeding.

3. When convening an Appeal Panel the Director shall select members from the Special Controls Review Panel,

- a) Each Appeal Panel should include a member who is on the list of those considered best qualified to be Chairs of Committees under paragraph 7.2.(a).
- b) Each Appeal Panel should include a member who is on the list of those who have specialist experience or knowledge in particular areas of law under paragraph 7.2.(b).

5. The Director of the Special Cases Unit will nominate a chair of the day for each Appeal Panel failing which the Appeal Panel shall elect a chair of the day from among the members of the Panel present.

8. Reasons

1. It is the responsibility of the chair of an Appeal Panel to ensure that proper and adequate reasons are given for decisions.

9. Minutes

1. Every Appeal Panel shall keep minutes of its proceedings with the names of members present at each meeting.

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

10. Secretary

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

11. Conflict of Interest

1. It is the responsibility of each Appeal Panel 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.

2. If any Appeal Panel member has a conflict of interest in any appeal allocated to them he or she shall return the papers to the Office for re-allocation to a different Appeal Panel Member.

3. If any member of an Appeal Panel 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 permits them to do so.

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.

12. Removal from Office

1. If it appears to the Director that any 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 Panel Chair

2. On receipt of a report under paragraph 12.1 the Panel Chair may, if he or she decides that the grounds in 12.1 (a) or (b) have been established, remove the member from office by giving notice to that member with reasons and informing the Director accordingly.

3. No member of the Review Panel shall be removed from office under paragraph 12.2 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.

4. The Panel Chair may remove from office any member of the 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 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.

5. The 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 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.

13. Attendance Fees and expenses

1. 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.

14. Panel meetings and Review Panel Chairs

1. It is the responsibility of the Director in consultation with the Panel Chair to convene meetings (including Annual General Meetings) of the Special Controls Review Panel and to give written notice to members of such meetings.

15. Annual General Meetings

1. An Annual General meeting shall be convened once in each calendar year.

2. The business of each Annual General Meeting shall normally include:

- (a) A review of the membership of the Panel
- (b) A report by the Director of the Special Case Unit,
- (c) A training session and a review of the performance of the Appeal Panels
- (d) Such other business as the Director of the Special Cases Unit or the Panel Chair considers appropriate.