

# Review Panel Arrangements 2000

## 1. Background

These arrangements, which come into effect on 1 April 2000 are made under Part D of the Funding Code. They provide for the creation of a Review Panel, the appointment from that Panel of Funding Review Committees and Cost Committees and the regulation of the proceedings of those Committees.

## 2. Definitions

"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 assessment of costs by the Commission and to exercise any jurisdiction in relation to costs exercisable by area committees under the Legal Aid Act 1988 and regulations.

"Funding Review Committee" means a Committee appointed under these Arrangements to exercise the jurisdiction set out in Section 16 of Part C of the Funding Code and to exercise any jurisdiction (other than in relation to costs) exercisable by area committees under the Legal Aid Act 1988 and regulations.

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

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

"Regional Panel" means those members of the Review Panel appointed by a particular Regional Director under paragraph 4.2 (a) together with any members of the Review Panel appointed by the Commission under paragraph 4.2 (b) designated as being part of the Regional Panel in the Region for which that Regional Director is responsible .

"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 Funding Review Committees and Cost Committees shall be appointed.

"Training Event" means a training event on the Funding Code and review procedures run by the Commission (or a provider approved by the Commission).

## 3. Duties and Discretion of Regional Director

3.1 In performing his or her duties and in exercising any discretion under these arrangements, the Regional Director shall have regard to such guidance as may be issued by the Commission.

## **4. Review Panel**

- 4.1 There shall be a Review Panel from which individual Funding Review Committees and Cost Committees shall be constituted.
- 4.2 The Review Panel shall be made up of members appointed as follows:
  - (a) no fewer than 16 and no more than 120 (240 in the case of Area 1) members appointed by each Regional Director
  - (b) such other members as may be appointed by the Commission.
- 4.3 Unless otherwise authorised by the Commission, Regional Directors may only appoint members to the Review Panel who meet the Commission's criteria for membership as published from time to time. In appointing members under paragraph 4.2 (a) the Regional Directors shall consult the Regional Panel Chair but may appoint members without consultation if no such Chair has yet been appointed or if consultation is otherwise impracticable.
- 4.4 Temporary members may be appointed to the Review Panel by either the Commission or a Regional Director where in their view it is appropriate to do so for the exercise of the Commission's functions. Unless otherwise specified, a temporary appointment to the Review Panel will last for one month from the date of appointment.
- 4.5 Regional Directors may only appoint a person who is not a solicitor or a barrister to the Review Panel (either as a member or a temporary member) with the authority of the Commission.

## **5. Applications for membership of the Review Panel**

- 5.1 Regional Directors shall secure applications for membership of the Review Panel by such means as they consider practicable and reasonable.

When they are seeking applications, they shall notify the General Council of the Bar and local law societies in the Region for which they are responsible.

## **6. Convening Funding Review Committees and Cost Committees**

- 6.1 The Regional Director will be responsible for the convening and composition of Committees and issuing agendas. The Regional Director shall normally select Committee members from his or her Regional Panel but may select any Review Panel member or members to sit on a Committee where he or she considers it appropriate to do so.
- 6.2 When appointing any Committee, the Regional 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.

- 6.3 It is the responsibility of the Regional Director, (in consultation with any Regional Panel Chair) to maintain a list of his or her Regional Panel members whom he or she considers are best qualified among those members to be Chairs of Committees.
- 6.4 The Regional Director shall also maintain a record of members within his or her Regional Panel who have specialist experience or knowledge in particular areas of law and types of proceedings.
- 6.5 Insofar as the Regional Director considers it practicable in each case:
- (a) each Committee shall include at least one member from the list maintained under paragraph 6.3, and
  - (b) the members of each Committee shall be appointed having regard to their particular expertise in relation to the matters on the agenda, and
  - (c) the solicitor members of any Costs Committee determining reviews of assessments of costs under the terms of the Commission's General Civil Contract shall have experience in carrying out or supervising work under such a contract, and
  - (d) at least one member of each Funding Review Committee shall have attended a Training Event.
- 6.6 The chair of each Committee shall be such member as is nominated by the Regional Director and will normally be selected from the list maintained under paragraph 6.3. In the absence of a chair nominated by the Regional Director, a chair of the day should be elected by the members of the Committee present from their numbers.
- 6.7 The provisions of paragraphs D7 and D8 of Section 3 of the Funding Code Procedures shall apply to any committee appointed under these arrangements.

## **7. Committee Reasons**

- 7.1 It is the responsibility of the chair of each Committee to ensure that the Committee gives proper and adequate reasons for its decisions.

## **8. Committee Clerks**

- 8.1 Each Committee shall be assisted by a clerk who is the representative of the Regional Director. The role of the clerk is to assist the Committee in performing its functions. The clerk must record the minutes of the meeting, the decisions made by the Committee and the reasons for them.

## **9. Committee Minutes**

- 9.1 Every 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 member of every Committee 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 member of a 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 Committee permits them to do so.
- 10.3 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 unless he or she is 65 years old or older. Any retiring member who is 65 years or older may be re-appointed provided he or she is not 70 years old or older if the Regional Director in consultation with the Regional Panel Chair considers it expedient for proper administration in a particular Region.
- 12.2 In considering whether to re-appoint any member the Regional Director in consultation with the Regional Panel Chair shall have regard to the same criteria as on the appointment of new 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 Regional 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 Director specifying the grounds of disqualification.

## **16. Removal from Office**

- 16.1 The Commission may if it thinks fit, remove from office any member of the Review Panel. If it does so it shall give reasons and shall without delay inform the former member and the Regional Director.
- 16.2 With the agreement of the Regional Director, the Chair of a Regional Panel may remove from office any member of the Regional Panel who having been given reasonable notice to attend has, without the consent of the Regional Director 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**

- 17.1 There shall be paid to any Review Panel members attending meetings under these arrangements such fees and such travelling and other proper expenses and subsistence allowances as the Lord Chancellor may from time to time authorise.

## **18. Regional Panel meetings and Review Panel Chairs**

- 18.1 It is the responsibility of the Regional 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.

## 19. Annual General Meetings

19.1 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 include:

- (a) the election of the Regional Panel Chair and Vice-Chair or Chairs.
- (a) a review of the membership of the Regional Panel
- (b) a report by the Regional Director on the administration and development of the Legal Services Commission in the relevant Region and nationally
- (c) and may include a training session, a review of the performance of the Committees and such other business as the Regional Director in conjunction with the Regional Panel Chair considers appropriate.

## 20. Area Committee Arrangements

20.1 The Legal Aid Board Area Committee Arrangements 1998 are hereby withdrawn.

### ***Legal Services Commission Criteria and Guidance on Appointments to the Review Panel and of Committee Chairs***

#### **Review Panel-Criteria**

The criteria which prospective members of the Review Panel must meet before they may be appointed by the Regional Director (in consultation with the Regional Panel Chair where required) are set out below.

- 1 All applicants must have three years experience of legal aid/CLS/CDS work since qualifying.

- 2 An applicant who is a solicitor must not have any committee decisions currently recorded against them at the OSS (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 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, Regional Directors shall, so far as they consider practicable:

- 1 Have regard to the desirability not only of retaining members with experience of Review Panel work, but also the desirability of bringing in new members;
- 2 Ensure that Regional Panels include members with broad, general legal experience and members with specialist legal experience; and
- 3 Ensure that Regional Panels include members from among groups who are in a minority in the legal profession such as women and members of ethnic minorities.

### **List of chairs-Guidance**

In maintaining lists of chairs under paragraph 6.3 of the Review Panel Arrangements, Regional Directors shall have regard to:

- 1 Experience of committee work;
- 2 Experience of legal aid/CLS/CDS work;
- 3 Understanding of relevant legislation and the Commission's guidance on it; and
- 1 Ability to deal courteously and effectively with clients and their representatives.