

April 2022

Tribunal Panel Members information pack

Legal Chairs

The Appointment Committee seeks to appoint five additional legal qualified members to join the Financial Reporting Council's Tribunal Panel as Legal Chairs. Applicants should be either a former or current member of the judiciary, a barrister, advocate or solicitor.

The FRC believes that equality of opportunity and diversity is important in the work that we do and we are strongly committed to making inclusive appointments.

This pack provides some of the key information about the role and we hope it helps you decide whether to apply to join the Tribunal Panel.

If you have any questions that are not answered in this pack, please email Anna Byrne on a.byrne@frc.org.uk or recruitmentgl@frc.org.uk

Many thanks for your interest in this role.

Foreword from Sir Stanley Burnton

The success of businesses depends on the competence and integrity of those involved. Accountants, whether as auditors, financial advisors or as officers of companies, and actuaries play a vital part in ensuring that companies are run competently and with integrity.

The FRC (soon to be transformed into the Audit, Reporting and Governance Authority) has a statutory responsibility to oversee the work of UK statutory auditors and has other regulatory responsibilities relating to accountants and actuaries through agreements and contracts with the professional bodies.

The disciplinary tribunals also play a vital role. Each tribunal includes a legal chairman, an accountant or actuary (depending on the profession of the respondent) of considerable experience and ability, and a lay member who will have had considerable experience in business.

My own first involvement in the FRC was in 2014 as chairman of an Appeal Tribunal and a case concerning an allegation that management had extracted large sums of money from the company. The Appeal Tribunal imposed a fine of £3 million, then considered a considerable sanction. A later case concerned a company who made a loss in cash terms but reported a profit in its audited accounts; the auditors' failure to audit the resulting adjustment to the accounts led to a fine of £5 million. Subsequent fines have been even greater. The size of these fines demonstrates the importance of the tribunals' work.

Members of the Tribunal Panel should have professional experience, a sense of justice, powers of analysis and the ability to express the tribunal's opinion in a clear decision. The cases are often demanding, but they are interesting and the work is personally satisfying because they involve the public interest.

I encourage all of you who are interested in work of public importance to apply.

The Right Honourable Sir Stanley Burnton

Senior Chair of the Tribunal Panel

Background to the role

About the Financial Reporting Council

The Financial Reporting Council (FRC)'s mission is to serve the public interest by setting high standards of corporate governance, reporting and audit and holding to account those responsible for delivering them.

As the designated competent authority for audit in the UK, the FRC sets auditing and ethical standards and monitors and enforces audit quality. The FRC also sets the UK Corporate Governance and Stewardship Codes and the UK standards for accounting and actuarial work and represents UK interests in international standard-setting.

We monitor and take action to promote the quality of corporate reporting. We provide independent professional discipline for accountants and actuaries by arrangement with the professional accountancy bodies and the Institute and Faculty of Actuaries ("IFoA") under the Accountancy and Actuarial Schemes (the Schemes). Audit requirements are enforced under the Audit Enforcement Procedure (AEP).

Following an independent review of the FRC and its role by Sir John Kingman, the government plans for the FRC to evolve into the Audit, Reporting and Governance Authority (ARGA) within the next few years. The enforcement procedures operated by the FRC are unlikely to be affected by this transition.

Further information about the work and remit of the FRC can be found at www.frc.org.uk.

About the FRC's enforcement work

The objectives of the FRC's enforcement work are to:

- Drive the application of high standards in corporate reporting, auditing and actuarial work through proportionate and risk-focused enforcement action where it is in the public interest.
- Promote improvements and innovation in these areas by communicating clear and impactful messages through enforcement cases and publications, and through the setting and monitoring of effective non-financial sanctions

The FRC's Case Examinations and Enquiries Team assess cases and the Case Examiner (overseen by the Conduct Committee) will determine whether cases should be taken through constructive engagement or referred to the Conduct Committee. The Conduct Committee will consider the Case Examiner's report and decide whether the matters merit a preliminary enquiry or investigation conducted either by the FRC's Executive Counsel or the relevant Recognised Supervisory Body (RSB).

Many investigations may subsequently either be closed without further action or conclude with a Settlement Agreement. A smaller number of cases will reach the Tribunal stage. Investigations may take several years before they reach the Tribunal stage and the number of investigations reaching the Tribunal stage varies each year.

Further information about the FRC's enforcement procedures can be found on the FRC website [Enforcement page](#) and in the FRC's [Annual Enforcement Reviews](#).

About the Tribunal Panel

Members of the Tribunal Panel are appointed collectively by the four members of the [Appointment Committee](#). The Appointment Committee is independent from the FRC Board, Conduct Committee and Executive Counsel. Each Tribunal Panel member is appointed on the basis that they have the appropriate qualifications and experience and demonstrate the necessary competencies to sit on a Tribunal.

Under both the Schemes and the AEP, the Convener will appoint Tribunals from members of the Tribunal Panel by on a case-by-case basis depending on members' suitability and availability and ensuring no conflicts of interest.

There are currently 21 members of the Tribunal Panel, consisting of legal chairs, members with auditing experience, accountancy members, actuarial members and lay members. Tribunals under the Schemes and the AEP will be chaired by a legally qualified member of the Tribunal Panel and will also include at least one lay person and one accountant/auditor.

I was an accountancy Tribunal Panel member for six years and was involved in four cases of which one went to a Tribunal. The work was hugely interesting, intellectually very demanding and rewarding. Some parts of formal complaints were technically very complex, and I felt that I was able to contribute by occasionally guiding a re-interpretation of the complaint and, on one occasion, identifying an aspect that had not been considered. It was a great pleasure to get to know and to work with other Panel Members.

Anthony Cory-Wright, Accountancy Member 2015 - 2021

About Tribunal Hearings

Tribunal hearings are normally open to the public except in exceptional circumstances where the Tribunal decides that this would not be in the interests of justice. Normally, if the case is contested, the Tribunal will be presented with evidence. Witnesses may be called and asked to give oral evidence and may be cross-examined. Some elements of the hearings may be conducted remotely.

Tribunal hearings are similar to hearings in court but less formal and the Tribunal will not be subject to the same restrictions as a court might be in accepting evidence. The individual or firm against whom the complaint has been brought is entitled to attend and be legally represented at all hearings and will have the opportunity to defend any allegations made against them, to present evidence and to challenge evidence against them.

Tribunal hearings vary in length and complexity, but typically last a few weeks and will be followed by the drafting of Decision Notices.

The Tribunal's Decisions are normally made public, although may be redacted/anonymised to protect third parties in some circumstances.

FRC Tribunals cannot order compensation to be paid to victims of the misconduct.

Further information regarding the Tribunal Panels, the work of tribunals, and current Tribunal Panel members can be found at:

<https://www.frc.org.uk/about-the-frc/tribunals>

The role and its responsibilities

Tribunal members are equal in decision making and when appointed to a Tribunal must determine the substantive issues of a case and, if appropriate, any sanction at a separate Sanctions and Costs Hearing.

Under the [Accountancy and Actuarial Schemes](#), the collective role and responsibilities of a Tribunal's include:

- a. hear a Formal Complaint delivered by the FRC's Executive Counsel under the Scheme against a Member and/or Member Firm or appeal, and determine whether to make an Adverse Finding, or uphold the appeal;
- b. determine any sanction(s);
- c. hear and determine proposed applications for funding of the costs of legal representation;
- d. provide reasons for the tribunal's decisions.

Under the [Audit Enforcement Procedure](#), the role and responsibilities of a Tribunal include:

Legal Chairs as Independent Reviewers (paper exercises)

- a. If Executive Counsel decides a Respondent is liable for Enforcement Action and the Respondent has agreed to a Proposed Decision Notice, consider that Proposed Decision Notice and approve or decline issuance as a Final Decision Notice [Rule 25]
- b. Consider a Proposed Settlement Decision Notice and approve or decline issuance as a Final Settlement Decision Notice [Rule 107]

All Tribunal members

- c. Make an Interim Order if considered necessary [Rule 79]
- d. Consider Parties' applications for the amendment of the Allegation [Rule 35]
- e. Approve proposed Case Management Directions or, where the Parties cannot agree, provide Case Management Directions [Rule 38]
- f. Take into account any relevant evidence [Rule 49]
- g. Request further written evidence or witness statements if necessary
- h. Apply the rules of natural justice
- i. Determine whether breaches of Relevant Requirements have occurred.
- j. Provide a Final Decision Notice on liability with written reasons for the Tribunal's finding drafted by the Legal Chair [Rule 75]
- k. Provide a Final Decision Notice on Sanction and Costs if applicable [Rule 78].

Under the [Crown Dependencies Regulatory Auditor Sanctions Procedure](#) and the [Audit Regulatory Sanctions Procedure](#), the collective role and responsibilities of a Independent Sanctions Tribunal include:

- a. Where the Enforcement Committee and Registered Auditor have not be able to agree on Sanctions or written Undertakings, take into account any evidence it considers relevant and either:
 - i. dismiss the case or
 - ii. make a finding in respect of the alleged failures to comply with the Regulatory Framework for Auditing
- b. Where making a finding, determine a Sanction or accept written undertakings by the Registered Auditor.
- c. Make a report setting out its decision and reasons and any related determinations to the FRC's Conduct and Supervision Committee.

Eligibility

Please ensure that you are eligible to join the Tribunal Panel by reviewing the eligibility criteria below. Legal Chairs may be asked to lead Tribunals under any of the procedures listed above under *The role and its responsibilities*.

Candidate eligibility under the Accountancy Scheme

Members of the Tribunal Panel serving on Accountancy Scheme cases may not:

- a. Be a current serving member of a governing body, officer or employee of any of the Participants (the relevant accountancy professional body e.g. the ICAEW)
- b. Have been an employee, officer or serving member of a governing body of any of the Participants within the two years prior to appointment.
- c. Be a member, director, committee member or officer of the FRC or its subsidiaries
- d. Have been a member, director, committee member or officer of the FRC or its subsidiaries within the two years prior to appointment.

Candidate eligibility under the AEP

The Audit Directive adopted by the UK government in 2016 provides that no member of the Tribunal Panel shall be eligible to be appointed to a Tribunal under the AEP if they are:

- a. a current employee, director, officer or other appointee of the FRC, or any its subsidiaries
- b. a member of the FRC's Conduct Committee
- c. a servicing officer of any of the Recognised Supervisory Bodies
- d. a practicing auditor or individual who have during the previous 3 years:
 - i. carried out statutory audits;
 - ii. held voting rights in an audit firm;
 - iii. been a member of the administrative, management or supervisory body of an audit firm;
 - iv. been a partner or employee, or otherwise contracted by an audit firm; or
 - v. been personally contracted to provide services to an audit firm.

Conflicts of interest

Tribunal Panel members that are in any way concerned with the investigation or the proceeding brought before a Tribunal will not be appointed to that Tribunal.

No Panel member appointed to a Disciplinary Tribunal will be appointed to a subsequent Appeal Tribunal to consider an appeal from that Disciplinary Tribunal.

All members of the Tribunal Panel are required to complete a [Statement of Independence](#) whenever they are approached by the Convener to serve on a Tribunal. The statement should declare any information that might be relevant to a member's suitability to sit on a particular Tribunal.

Immediately following appointment, Tribunal Panel accountancy members are required to provide a written undertaking that they will not seek or accept appointment as an officer, employee, or member of the governing body of one of the accountancy professional bodies participating in the Accountancy Scheme.

Candidate requirements

A lawyer (current or former member of the judiciary, a barrister, an advocate or a solicitor), with a preference for, but not limited to, those with a chancery or commercial law background and an understanding of financial statements and actuarial work. A working knowledge of the actuarial and accounting technical and ethical standards would also be beneficial but not essential.

Candidates should be able to demonstrate a strong legal background and experience in making case directions and chairing complex hearings with robust legal representation from both parties.

Candidates should be confident in reading, analysing and distilling very substantial volumes of documentation, both in paper and electronic format.

Candidates should be experienced in writing up reports/decisions on complex matters in a timely, succinct and logical manner, providing clear evidential reasons for the Tribunal's conclusions.

Candidates may be asked to provide an example of a recent judgment or decision they have drafted to the Appointment Committee.

Candidates should be competent in facilitating constructive discussions and building consensus within a multi-disciplinary, diverse Panel where all members are equal in the decision-making process.

Legal Chairs must have the time available to direct and lead multiple-week hearings efficiently. This role often therefore suits someone who is retired or partially-retired or able to accommodate a multiple week hearings and the subsequently drafting of the Tribunal's Decision amongst other work commitments.

Shortlisted candidates will be required to show a letter of good standing from their professional body.

In addition to their professional experience, the Appointment Committee seek candidates who can demonstrate the core competencies required of all members of the Tribunal Panel. These competencies will form the basis of a candidate's online application form and will be tested at interview.

Exercising Judgement

- Integrity and an independence of mind to make incisive, fair, evidence-based and sound decisions.
- An ability to apply a public interest perspective.
- An understanding of the Nolan Principles and the [Regulators' Code](#).

Analysis of information

- Strong intellectual qualities and an ability to grasp complex, often technical concepts
- Experience in analysing and distilling large volumes of information to achieve a clear understanding of the pertaining issues.

Managing work efficiently

- An ability to plan and organise effectively and
- Can manage workload and the available resources within prescribed timelines.

Learning and Developing

- A willingness to take on continuous learning
- Has an up-to-date understanding of the current regulatory environment in the UK
- Abreast with the developments and challenges within their professional discipline.

Working as a team

- Values diversity and shows sensitivity and respect to everyone you work with.
- A willingness be a constructive member of a collective decision-making body.
- Experience in listening to, take on board, and navigating competing views.

Effective communication

- An ability to communicate effectively within a team
- An ability to ask questions with confidence and to frame thoughts and opinions clearly, courteously and effectively.

IT Competency

- A proficiency in working with information technology without additional support.
- Experience in engaging with new information technology applications/programmes

Handling information - Competence in handle sensitive and confidential information in accordance with FRC's information handling policies and UK law.

Time and Commitment - Candidates should also have sufficient time and the capacity and capability to sit on a Tribunals. Please see below for the expected time commitment.

Appointment terms and conditions

Expected time commitment

Candidates will need to be prepared to devote sufficient time to the business of a tribunal, including attending sitting days and work in preparation for and post hearings. Cases are often complex and some hearings may take several weeks to conclude. However, members are unlikely to be selected for more than one Tribunal a year. Legal Chairs will also be required to draft, with support of the other members, a comprehensive report on the Tribunal's findings.

Fees and expenses

A daily fee of £1,100 will be paid to Legal Chairs in respect of tribunal hearings. Pro rata fees will also be paid for reading papers in advance of hearings, other preparation work and any pre-hearing/post-hearing matters. In addition, the reasonable expenses incurred in performing the duties of the appointment will be reimbursed. Panel members are asked to submit claim form to the FRC detailing the number of hours completed and evidence of any expenses incurred.

Length of appointment terms

The initial term of appointment will be for two or three years. Subject to continuing eligibility, members may be considered by the Appointment Committee for a further term and will be asked to complete a reappointment self-assessment.

Members may be removed from the Tribunal Panel if the Appointment Committee considers that the behaviour, actions or conflicts of interest of that member warrant the removal.

Other terms and conditions

Members will receive an induction and will be expected to attend appropriate training. Attendance at training is paid based on the daily fee.

How to Apply

All candidates are asked to complete the [online application form](#). The form asks candidates to explain how they meet each of the core competencies, providing relevant examples. Candidates will also be asked to email a recent CV to recruitmentgl@frc.org.uk which will be matched with their submitted application form. Please note, no covering letters are required.

Final stage candidates will be asked to provide a confirmation from their professional body of their qualification and good standing in their profession and two referees who are able to provide relevant feedback on both their professional knowledge and character.

Applications should be submitted online by **6 June 2022**

The recruitment process

After applications close, the Appointment Committee will receive anonymised (name and gender references redacted where possible) applications for consideration and will independently shortlist those they wish to interview. Shortlisted candidates will be contacted the week commencing 27 June 2022 and will be sent information about the information and any pre-reading / case studies for discussion at interview.

Members of the Appointment Committee will conduct first round interviews on **4 and 8 July 2022** and may conduct second round interviews thereafter if required.

Successful candidates will receive a formal offer from the Appointment Committee ready for a term starting on either 1 September or 1 December 2022.

The proposed timeline

Applications deadline	6 June 2022
Shortlist contacted	week commencing 27 June 2022
Interviews	4 and 8 July 2022
Formal offers	week commencing 18 July 2022 (tbc)
Term in office commences	1 September or 1 December 2022

Diversity of applicants

The Appointment Committee understands and values the benefits that diversity can bring to a decision-making group. It aims to reflect the diversity of the FRC's stakeholders in the Tribunal Panel and make good use of the differences, in terms of skills, experience, background, race, sexual orientation and gender, that candidates can offer to enhance the approach and effectiveness of the Panel. All appointments will be made strictly on merit after an open and transparent recruitment process.

The FRC is a signatory to the Government's Disability Confident scheme, which means that we guarantee an interview to any disabled candidates entering under the scheme, should they meet the minimum criteria for a role.

Applications can request some reasonable adjustments to assist them during recruitment process via the application form.

Data handling

Any Personal information will be stored in accordance with applicable laws and will only be kept as long as needed for the purposes of this recruitment exercise or as otherwise required by applicable law. Please see our [Recruitment Privacy Notice](#) for more information.

Further information

Further information is available on the FRC's website. If you have any specific questions that are not answered in this pack, please email Anna Byrne on a.byrne@frc.org.uk

