

TRIBUNAL AND APPEAL PANEL TERMS OF APPOINTMENT

Appointments to the Panel

1. The Nominations Committee shall from time to time appoint not less than 4 individuals (all of whom shall be independent of the Conduct Committee) to form an appointment committee to appoint individuals (having the appropriate qualifications and experience to sit on a Tribunal) to be members of the combined Tribunal and Appeal Tribunal Panel ("the Panel").
2. The persons who may be appointed to the Panel shall include, but not be limited to, persons having legal and auditing expertise and experience.
3. No member of the Panel shall be:
 - (a) a member of the Conduct Committee or the Case Management Committee;
 - (b) a serving officer of any of the Recognised Supervisory Bodies;
 - (c) a current employee, member, director or officer of the FRC, or subsidiary company of the FRC; or
 - (d) a practising auditor or an individual who has during the previous 3 years
 - (i) carried out statutory audits;
 - (ii) held voting rights in an auditing firm;
 - (iii) been a member of an administrative management or supervisory body of an audit firm;
 - (iv) been a partner, employee, or otherwise contracted by an audit firm; or
 - (v) been an employee, member, director or officer of the FRC, any subsidiary company of the FRC or any Recognised Supervisory Bodies.
4. Members appointed to the Panel will be appointed for terms of up to 3 years and may be reappointed.
5. No member is entitled to hold office for more than three terms.

Appointment of Tribunals and Appeal Tribunals from the Panel

6. A Tribunal or Appeal Tribunal shall be appointed from the Panel by the Convener who shall be appointed by the Conduct Committee.
7. A Tribunal or Appeal Tribunal shall comprise three or five persons.
8. The Chair of the Tribunal or Appeal Tribunal must be a lawyer (a current or former member of the judiciary, a barrister, an advocate or a solicitor).
9. A three-person Tribunal or Appeal Tribunal must comprise, in addition to the Chair:
 - (a) a person who is neither a lawyer nor an individual with audit experience;

- (b) an individual with audit experience.
10. A five-person Tribunal or Appeal Tribunal must include, in addition to a Chair:
- (a) at least one person who is neither a lawyer nor an individual with audit experience;
 - (b) two (but no more than two) individuals with audit experience.
11. The Convener must, having regard to:
- (a) the matters to be considered by the Tribunal or Appeal Tribunal;
 - (b) the availability, experience and expertise of the Panel members;
- to determine the size and composition of the Tribunal or Appeal Tribunal required for each Hearing.
12. No member may be appointed to an Appeal Tribunal if he has had prior involvement with a particular case as a Tribunal member.

Attendance at Hearings

13. The validity of proceedings shall not be undermined where a Tribunal or Appeal Tribunal member present at the former Tribunal or Appeal Tribunal hearing, since postponed or adjourned, is not present at subsequent proceedings.

Responsibilities of the Tribunal

14. The Tribunal shall exercise those functions under the Audit Enforcement Procedure delegated to a Tribunal in Parts 5, 6, 7 and 9 including:
- (a) considering all admissible evidence, including the evidence of witnesses placed before it by the Parties;
 - (b) announcing its findings and giving reasons for its decision;
 - (c) in the event of an adverse finding, receiving evidence and submissions in respect of Sanction;
 - (d) considering and announcing its decision on Sanction and giving reasons for its decision;
 - (e) considering and deciding the issue of costs¹ ;
 - (f) issuing a Final Decision Notice which will set out its findings and Sanction;
 - (g) in appropriate cases and with proper notice, considering and deciding whether to impose an Interim Order.
15. The Chair of the Tribunal shall exercise those functions under the Audit Enforcement Procedure delegated to a Tribunal Chair including:

¹ Audit Enforcement Procedure Rules 87 - 93

- (a) the giving of Case Management Directions at a Case Management Meeting²;
 - (b) ruling on any question of law or admissibility of evidence³;
 - (c) postponing or cancelling Case Management Meetings or Hearings⁴.
16. In undertaking its responsibilities, the Tribunal will have regard to the Sanctions and Publications Policies that accompany the Audit Enforcement Procedure.

Responsibilities of the Appeal Tribunal

17. The Appeal Tribunal shall exercise those functions under the Audit Enforcement Procedure delegated to an Appeal Tribunal in Parts 7 and 9 including:
- (a) considering the grounds of appeal and submissions made by the Parties on appeal;
 - (b) deciding whether one or more of the grounds of appeal at Rule 64 is made out;
 - (c) where an appeal is successful;
 - (i) revoking or varying the relevant Final Decision Notice on the case;
 - (ii) giving such direction or taking such other steps as the Tribunal could have given or taken;
 - (iii) making any other decision which the Tribunal could have made; or
 - (iv) remitting the case back to the Tribunal.
 - (d) announcing its findings and giving reasons for its decision;
 - (e) considering and deciding the issue of costs⁵.
18. The Chair of the Appeal Tribunal shall exercise those functions under Rule 66.
19. In undertaking its responsibilities, the Appeal Tribunal will have regard to the Sanctions and Publications Policies that accompany the Audit Enforcement Procedure.

Transitional provision

20. On the coming into force of the Statutory Auditors and Third Country Auditors Regulations 2016 (SATCAR 2016), implementing EU Audit Regulation (EU) 537/2014 (Audit Regulation) and the EU Audit Directive 2014/56/EU (Audit Directive), the existing members of the Tribunal Panel under the Accountancy Scheme, Actuarial Scheme and Auditor Regulatory Sanctions Procedure shall be appointed to Tribunal and Appeal Tribunal Panel provided that they satisfy the requirements at paragraph 3.

Issued by the Conduct Committee
17 June 2016

² Audit Enforcement Procedure Rules 29 and 33

³ Audit Enforcement Procedure Rule 32

⁴ Audit Enforcement Procedure Rule 44 and Rules 74 - 78

⁵ Audit Enforcement Procedure Rules 87 - 93