

¹ Problem services are identified by consumer complaints, industry complaints or PhonepayPlus monitoring.

² Once a case has been received, a request for information may be sent to the Level 1 provider (L1) or Level 2 provider (L2) and could include:

- L2 details
- service name and message logs
- an explanation of how the service works
- copies of promotional material
- consumer opt-in details

³ Complaints are assessed according to their potential for consumer harm.

⁴ Cases are considered and moderated by the Head of Customer Services and the Head of Investigations. The Complaint Resolution Team deals with cases which require no further action and those which are resolved using the Fast-track procedure or Track 1 procedure. Cases involving the Track 2 procedure or Emergency procedure are dealt with by the Investigations Team. The potential impact of a case is used as a guide and a decision is made by assessing the service and provider as a whole. Factors which may increase the likelihood of a case being dealt with formally include breach history, apparent intent to cause consumer harm, prior permission breaches and failure to comply with an informal procedure.

⁵ The Fast-track procedure is designed to nip problems in the bud quickly and easily by working informally with the L2 provider to remedy non-compliance and help consumers obtain a refund where they are entitled to one.

⁶ The L2 provider will be notified of the initiation of a Fast-track procedure. A request for information may be made (see footnote 2 above for examples of requests). All correspondence sent to an L2 provider will be copied in to the L1 provider it is contracted with during the procedure. Contact will also be made with any complainants in relation to the service.

⁷ If potential breaches are identified, we will instruct the L2 provider to remedy the potential breaches we have identified. A standard deadline of five working days is given to the L2 provider to confirm that remedial action will be taken and to implement that action.

⁸ If no potential breaches are identified, we will inform the L2 provider and any relevant complainants that we will close the case with no further action.

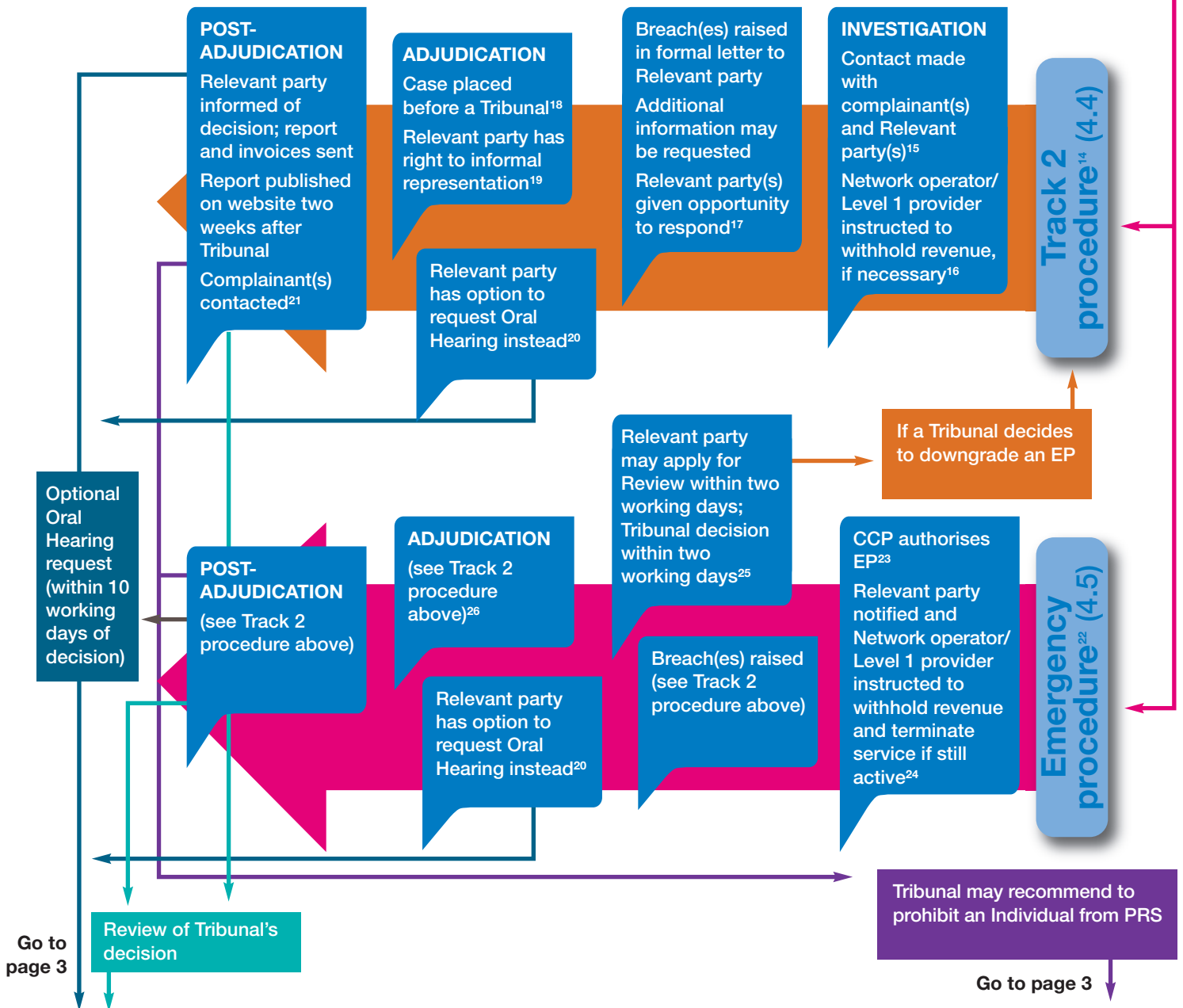
⁹ Once the L2 provider has confirmed that the potential breaches will be remedied within the timeframe agreed with the Complaint Resolution Team and refunds are issued to complainants, where necessary, we will notify the L2 provider and complainants that the case will be closed. If we have received confirmation that the potential breaches will be remedied but remedial action cannot be taken within the five-working-day deadline, we will review the service on the agreed implementation date and only close the case if satisfied the service is compliant.

¹⁰ The Track 1 procedure will be applied in cases where minor breaches may have occurred but where systemic compliance issues have been identified by PhonepayPlus. It is likely that issues which occurred during a previous Fast-track procedure will be dealt with using the Track 1 procedure if those same, or similar, issues occurred again.

¹¹ A Complaint Resolution Executive will notify the L2 provider of the initiation of a Track 1 procedure. A request for information may be made (see footnote 3 above for examples of requests). All correspondence sent to a L2 provider will be copied in to the L1 provider it is contracted with during the procedure. Contact will also be made with any complainants in relation to the service.

¹² We will attempt to arrange a meeting with the L2 provider (and hopefully the L1 provider) to agree an action plan to remedy the potential breaches. We will need to see evidence of the action plan being implemented by an agreed date and of refunds issued to complainants who are entitled to one.

¹³ Once the action plan has been fully implemented and we are satisfied that the service is compliant, we will arrange a follow-up review at a later date to check that the service remains compliant. Ongoing support is given to the L2 provider after a case has been closed.



¹⁴ The Track 2 procedure is a formal process which is pursued by the Investigations Team. If a L1/L2 provider or Network operator is under formal investigation, it is likely that breaches raised against that party will be presented to an Adjudication Tribunal.

¹⁵ A preliminary investigation may be carried out before breaches are raised. If this is the case, the Executive will send a request for information under paragraph 4.2.3 of the Code. A response is expected within five working days of the request being sent. The Executive may also request information from other parties in the value-chain in respect of investigations, for example to verify revenue figures for a service under investigation. Contact will also be made with any complainants in relation to the service.

¹⁶ The Executive may instruct a Network operator or L1 provider to withhold revenue in respect of a service under paragraph 4.4.7 of the Code by sending Formal Directions pursuant to paragraph 3.2.3(a) of the Code. This also applies to a L1 or L2 provider under investigation who also operates as a Network operator.

¹⁷ A breach letter is sent to the Relevant party, who should provide a formal written response to the breaches and any aggravating and mitigating factors within the deadline set (which is normally ten working days). A request for further information under paragraph 4.2.3 of the Code may also be included within a breach letter. After assessing the response, the Executive may decide to refer the case to the Complaint Resolution Team to deal with informally, if it transpires that no serious harm has occurred or that no breaches have occurred.

¹⁸ The case is heard by an Adjudication Tribunal (consisting of three members of the Code Compliance Panel) at the next available Tribunal meeting where a decision on the breaches and sanctions, if any are imposed, is made. The outcome is relayed to the Relevant party by the following day.

¹⁹ The Relevant party has an opportunity to request an informal representation (which it is not entitled to) before adjudication, which must be requested at the same time that a breach response is submitted. This 30-minute session allows the party under investigation to clarify the facts of a case submitted within the papers to the Tribunal in person and in an informal setting. New evidence or submissions are not permitted to be put forward at this stage. It is also the Tribunal's opportunity to explore and ask questions to gain a fuller understanding of the issues involved.

²⁰ Either the Executive or the Relevant party under investigation may bypass the adjudication stage by requesting an Oral Hearing at any point after receiving a breach letter.

²¹ The adjudication report and invoices (for both administrative charges and fine, if relevant) will be sent to the Relevant party by nine working days following adjudication and published on the PhonepayPlus website two calendar weeks following adjudication. We will also write to all the complainants in relation to an investigation to inform them of the outcome and how they can receive a refund if a refund sanction has been imposed.

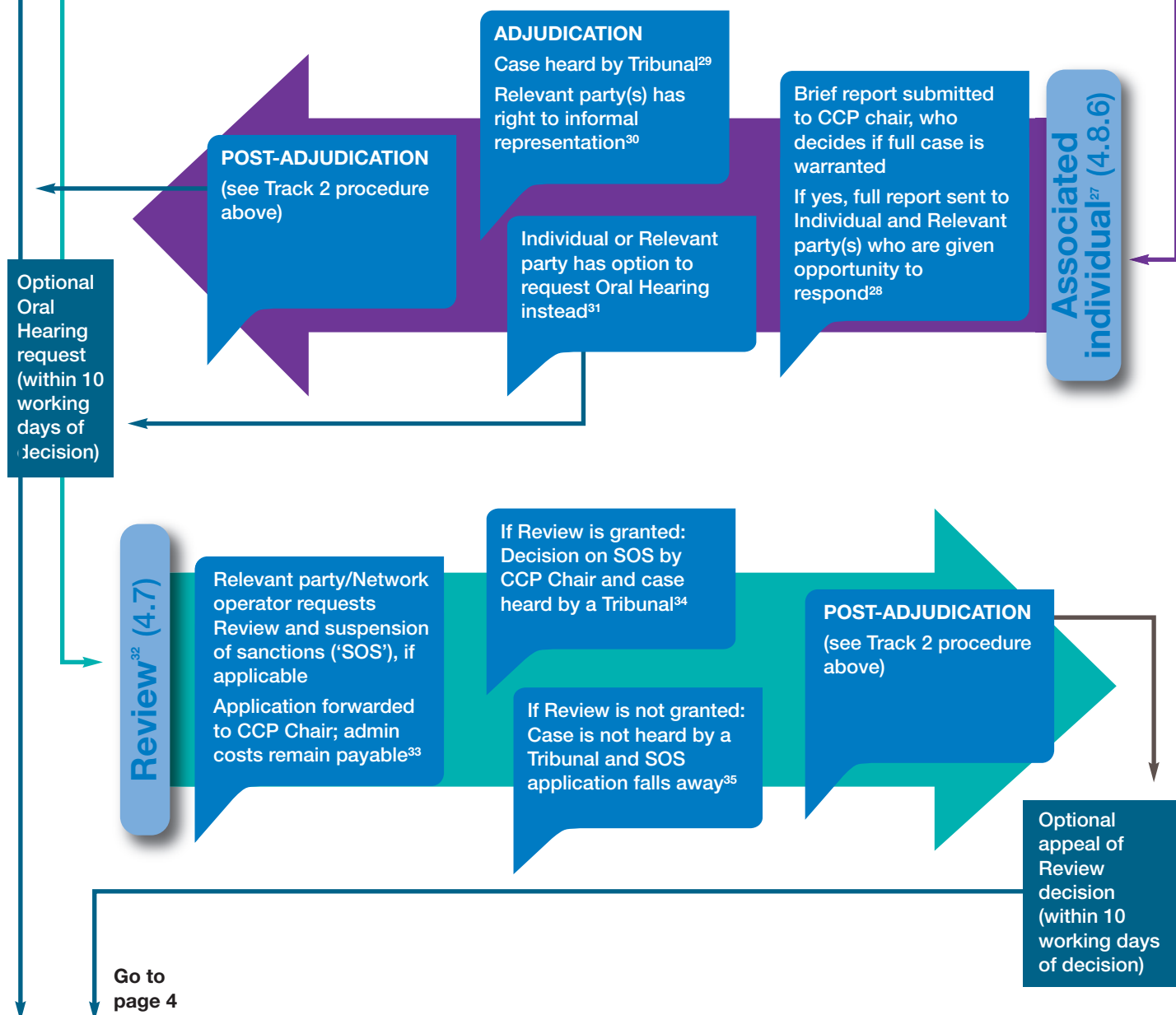
²² The Emergency procedure is used only in the most serious of cases where we believe very serious consumer harm has occurred and requires urgent remedy. In these cases, we will begin an immediate investigation that may result in the instant barring of access to the service in question.

²³ The Executive has to obtain authorisation from three Tribunal members before an Emergency procedure can be invoked. Once authorised, the Executive will notify the Relevant party and instruct it to suspend the service with immediate effect.

²⁴ The Executive will also instruct the relevant Network operator / Level 1 provider to withhold revenue in respect of the service under paragraph 4.4.7 of the Code by sending Formal Directions pursuant to paragraph 3.2.3(a) of the Code. This also applies to a L1 or L2 provider under investigation who also operates as a Network operator.

²⁵ The Relevant party may apply, in writing, for a review of an Emergency procedure within two working days of notification under paragraph 4.5.3 of the Code. The Code Compliance Panel will decide within two working days whether the service should remain suspended either in part, or full.

²⁶ The case must be heard by a Tribunal within 10 working days, or the soonest practical date thereafter, after the breach response has been received.



²⁷ A Tribunal may make a recommendation to name an Individual under paragraph 4.8.2(f), 4.8.2(g) or 4.8.2(h) of the Code during any adjudication under the Track 2 or Emergency procedure. The prohibition sanctions in the Code enable PhonepayPlus, in cases where serious breaches have taken place, to formally name an individual or Relevant party and prohibit him/her/it in a personal capacity from involvement in, or contracting for, the provision of any, or any category of, premium rate services for a defined period.

²⁸ The Tribunal will direct the Executive to prepare a preliminary report which is submitted to the Chair of the Code Compliance Panel (CCP). If the CCP Chair decides that a full naming case is warranted, the Executive will prepare a full case and send it to the Individual concerned and the relevant parties, who are given an opportunity to respond to the information.

²⁹ The case is heard by a Tribunal (consisting of three members of the Code Compliance Panel) at the next available Tribunal meeting where a decision is made whether to name the Individual and define the period of prohibition. The outcome is relayed to the Relevant parties by the following day.

³⁰ The Individual and Relevant parties have an opportunity to request an informal representation (which they are not entitled to) before adjudication, which must be requested at the same time that a response to the Executive's notice is submitted. This 30-minute session allows either party to clarify the facts of a case submitted within the papers to the Tribunal in person and in an informal setting. New evidence or submissions are not permitted to be put forward at this stage. It is also the Tribunal's opportunity to explore and ask questions to gain a fuller understanding of the issues involved.

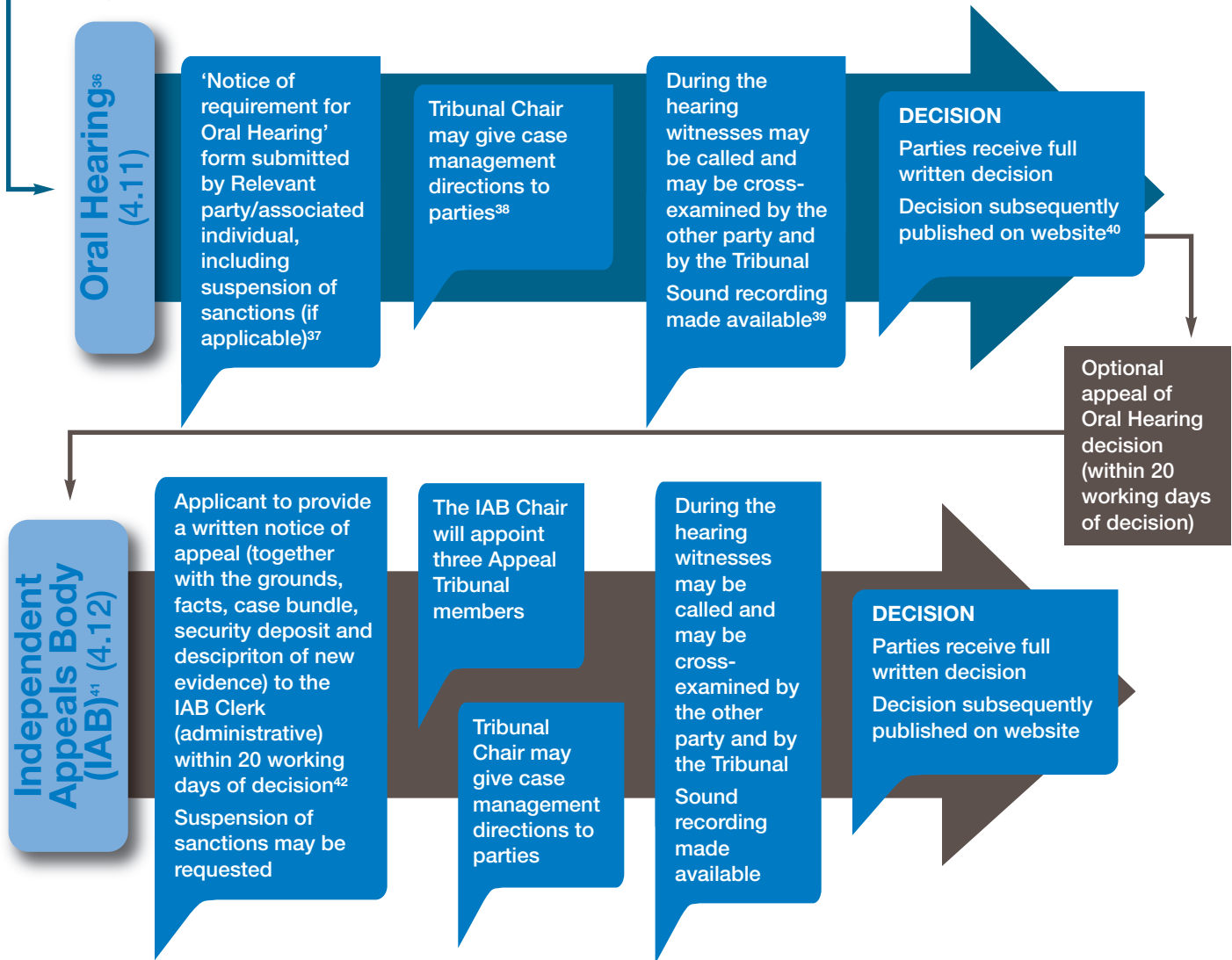
³¹ Either the Executive or any of the Relevant parties may bypass the adjudication stage by requesting an Oral Hearing.

³² A Review is a reconsideration of the original case and adjudication in light of any new evidence which was not available to, or considered by, the original Tribunal.

³³ When a request for a Review is submitted to the Executive, a Review application form and suspension of sanctions (if requested) must subsequently be submitted by the Relevant party applicant, along with any supporting evidence. The applicant must confirm its acceptance that it may be liable for administrative costs. A request for a suspension of sanctions must be a separate application made at the same time and must explain the reasons why the sanctions cannot be complied with until the Review has been concluded. An invoice for the application fee is sent to the applicant and should be paid before the application is forwarded to the Chair of the Code Compliance Panel. The Chair will decide whether the Review request is merited and, if so, instruct the Executive to immediately proceed with submitting the case to the nearest available Tribunal hearing for a Review.

³⁴ The applicant may request an informal representation (which it is not entitled to) before adjudication. This 30-minute session allows the party under investigation to clarify the facts of a case submitted within the papers to the Tribunal in person and in an informal setting. New evidence or submissions are not usually permitted to be put forward at this stage. It is also the Tribunal's opportunity to explore and ask questions to gain a fuller understanding of the issues involved. Sanctions resulting from the Review may be greater or lesser than the original adjudication decision. The outcome is relayed to the Relevant party by the following day.

³⁵ If a Review is not granted, a suspension of sanctions is not granted by default. Where the right to an Oral Hearing has been reserved at the time the Review was requested (by completion of the Oral Hearing application form), the Relevant party has 10 working days from notification of the refusal to activate the Oral Hearing request.



³⁶ An Oral Hearing is a formal forum in which both parties appear in person and the case is heard anew. This means that the Executive can raise new breaches in addition to those it raised in the original case, or choose to withdraw breaches originally raised. Both sides may choose to start from scratch in terms of the evidence presented or use material originally submitted. Sanctions may subsequently be increased or reduced.

³⁷ A 'Notice of requirement for Oral Hearing' form and suspension of sanctions (if relevant) must be submitted to the Executive. The applicant must confirm its acceptance that it may be liable for Oral Hearing costs. The overall costs for an Oral Hearing are significantly higher than that of a Review, ranging from approximately £30,000 to considerably more for a complex case. Should a request for an Oral Hearing be subsequently cancelled, the applicants will be charged for all costs incurred by PhonepayPlus up to the time of cancellation. The Chair of the Tribunal will decide whether the suspension of sanctions request is merited and, if so, suspend the sanctions (in whole or part) until the Oral Hearing takes place.

³⁸ During the pre-hearing, the Chair of the Tribunal may give case management directions to both parties. A hearing date will be scheduled.

³⁹ During the Oral Hearing, the Executive will outline the grounds of the case, using witnesses, if necessary. The applicant, who can present their own case or appoint a legal representative to accompany and present it on their behalf, is entitled to respond using witnesses, if necessary. This is an iterative process and witnesses may be cross-examined by the other party and by the Tribunal members. A sound recording of the hearing is made available to both parties as soon as possible following the hearing.

⁴⁰ The Tribunal will provide a written decision as soon as is practicable, which is sent to both parties and published on the PhonepayPlus website.

⁴¹ Providers, Associated Individuals, Network operators and prior permission applicants may request a further appeal to the Independent Appeals Body (IAB) following the decision of an Oral Hearing Tribunal. However, the grounds for appealing are limited. An applicant may appeal if the decision was based on wrong or incorrect facts, the decision was wrong in law or if it is believed that PhonepayPlus exercised its discretion wrongly in reaching its decision.

⁴² An applicant is to provide a written notice of appeal setting out the grounds and facts to the IAB Clerk (administrative) within 20 working days of the determination which is the subject of the appeal. The Clerk will notify the Chairman of the IAB Tribunal (which is independent of PhonepayPlus and the Code Compliance Panel). The notice of appeal should be accompanied by:

- The written adjudication
- The Oral Hearing case bundle
- A £5,000 security deposit, or application to waive or reduce the security deposit
- A description of any new evidence which, for good reason, was previously unavailable
- Reasons for the delay and grounds for a notice of appeal and/or accompanying documents, if provided to the Clerk more than 20 working days after the determination which is the subject of the appeal.