

# PhonepayPlus

## INDEPENDENT APPEALS BODY MEMBERS' HANDBOOK

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## **1. THE ROLE**

### **1.1 Responsibilities**

1.1.1 The function of the Independent Appeals Body is to hear and determine appeals from network operators, service and content providers, and associated individuals who have exhausted PhonepayPlus' internal review processes and remain dissatisfied, being of the view that the decision reached was not just, correct or fair. This may be in respect of a finding made by PhonepayPlus and/or a sanction imposed; the refusal of an application for prior permission; or the imposition of conditions of such prior permission which the service provider considers to be unfair.

1.1.2 The Chair (Chair) and Lay Members of the Appeals Body have the following individual responsibilities:

- Reading and assimilating the appeal "bundle" before the hearing commences, including on occasions the study of substantial amounts of complex, and sometimes technical, documentary evidence.
- In conjunction with other Appeals Body members, hearing and determining appeals by considering facts, and applying the relevant paragraphs, on the basis of reasoned interpretation, of PhonepayPlus' current and immediately past Code of Practice.
- Recording and giving the decision of the Appeals Body hearing in summary, ensuring that the proceedings at the hearing are fully and correctly recorded and that a final judgement with reasons is delivered to the parties within a reasonable time.
- In conjunction with other Appeals Body members, considering and agreeing the appropriate award of costs, taking account of the procedures and decisions reached by the Appeals Body.
- In conjunction with other Appeals Body members, ensuring that hearings are conducted properly, fairly and in accordance with good practice and the relevant law (such as Article 6, European Convention on Human Rights).
- Promoting in each case the most expeditious dispatch of business compatible with the interests of justice and in accordance with the provisions of the Human Rights Act 1998.
- Taking responsibility for maintaining the authority and dignity of the Appeals Body.
- Contributing to the resolution of issues of procedure and Codes of Practice interpretation as they arise during hearings.
- Undertaking such training as may be necessary to keep abreast of developments within the premium rate field.

1.1.3 The Chair has the following additional specific responsibilities:

- Giving guidance and directions to Lay Members and to advisors/clerks in appeals brought before them, both before and during the course of hearings.
- Conducting such pre-hearing processes as may be necessary.

- Ensuring that Lay Members are directed to training where it is felt desirable or necessary.
- Where necessary, providing PhonepayPlus' Board with comments on areas of the Codes or the appeals procedure which might usefully be clarified further in light of decisions and reasoned interpretations made by the Appeals Body when hearing cases.
- Where necessary, communicating with the media on behalf of the Appeals Body.

## **1.2 The Appeal Tribunal**

1.2.1 Upon receipt of a notice of appeal the Chair shall appoint an Appeal Tribunal, usually consisting of three members, to deal with the appeal. The Chair shall be the Chairman of the Tribunal.

## **1.3 Liability**

1.3.1 Members of the Appeals Body will be provided with insurance cover against claims for negligence and other usual risks. A copy of the policy is available for inspection, on request.

## **1.4 Clerk**

1.4.1 The Appeals Body will be provided with a legally qualified clerk for appeal hearings, and an administrative clerk as and when necessary to deal with all administrative and similar matters.

## **2. APPOINTMENTS**

2.1 The procedures for appointments are agreed with the Chair and do not form part of this handbook

### **2.2 Terms of Office**

2.2.1 The term of office for the Lay Members and the Chair is three years.

2.2.2 While there is provision for Appeals Body members to be re-appointed for a second (and final) term of up to three years, re-appointment is not automatic.

### **2.3 Induction and Training**

2.3.1 All new members of the Appeals Body will complete a training and induction programme developed by the Chair, with the support of the Chief Executive of PhonepayPlus where requested, to suit individual needs. This will include familiarisation with the role and work of the PhonepayPlus Board and Executive.

2.3.2 Specific training needs that are identified as a result of a performance review or otherwise will be assessed and met.

### **2.4 Performance Reviews and Misconduct**

2.4.1 The performance of a new Appeals Body member will normally be reviewed by the Chair after one year and thereafter in each year when the Appeals Body sits. At the Chair's discretion, performance reviews may take place at any time and at least once during the course of a second term of office.

2.4.2 If performance reviews lead the Chair to conclude that a Lay Member's performance is unsatisfactory, the member may be asked to resign. If the member is unwilling to do so, his

or her continuation in office shall be a matter for an independent person appointed by the PhonepayPlus Board to decide.

- 2.4.3 The performance of the Chair will be reviewed by the Chairman of the PhonepayPlus Board from time to time. If the Chair's performance is determined on review to be unsatisfactory, the Chair may be asked to resign. If the Chair is unwilling to do so his or her continuation in office shall be a matter for an independent person appointed by the PhonepayPlus Board to decide.
- 2.4.4 In the event of gross misconduct on the part of the Chair or a Lay Member, that person's appointment shall cease forthwith.
- 2.4.5 In the event of apparent misconduct by a Lay Member, the Chair shall investigate and determine the matter. If the Chair concludes that it is appropriate that the appointment should terminate but the Member is unwilling to resign, then the Lay Member's continuation in office shall be a matter for an independent person appointed by the PhonepayPlus Board to decide.

## **2.5 Availability**

- 2.5.1 Members of the Appeals Body should notify the administrative clerk of periods of unavailability which are known in advance, e.g. holiday dates. Such notification should be made as early as possible.

## **3. REMUNERATION AND EXPENSES**

### **3.1 Remuneration**

- 3.1.1 Members of the Appeals Body will be paid an attendance allowance on a basis that is separately notified and which is reviewed in April each year. These rates do not include travel time which is not payable.
- 3.1.2 Members of the Appeals Body will be entitled to remuneration, as outlined in 3.1.1 above, for time spent in training and for attendance at meetings which they are required to attend by reason of their membership of the Appeals Body.
- 3.1.3 Claims should be made on the attendance timesheet which is attached at Appendix E to this Handbook. . Claims are required to be received by Finance by the 10<sup>th</sup> of the following month in order to be processed in that month's payroll on or around the 26th.
- 3.1.4 Members of the CCP are not employees of PhonepayPlus and are on contracts for services (self employed workers) and are therefore responsible for their own tax records. Tax and National Insurance deductions are however deducted at source as part of the usual payroll run.
- 3.1.5 Appeals Body members are not eligible to join the PhonepayPlus pension scheme or to receive other benefits or contributions to a personal pension scheme..

### **3.2 Expenses**

- 3.2.1 Travel, and where appropriate subsistence, expenses which are incurred wholly and necessarily in the discharge of their duties by members of the Appeals Body may be reclaimed.
- 3.2.2 Standard class tickets will be reimbursed for rail journeys on Appeals Body business. Taxi fares incurred while on Appeals Body business and to and from hearings and other meetings (from within the London area), as well as any other standard public transport fares, may be reclaimed.

- 3.2.3 When car travel is necessary, this should be claimed at existing<sup>1</sup> RAC rates.
- 3.2.4 Claims for expenses should be submitted on a monthly expenses form, supported by full receipts and vouchers, copies of which are available from the administrative clerk and a sample of which is attached at Appendix F.
- 3.2.5 PhonepayPlus submits an annual P11D return to the Inland Revenue for each Appeals Body member, stating the amount paid in expenses covering travel from the Appeal Body member's home or office to and from PhonepayPlus. Appeals Body members may be liable to pay income tax on these amounts.

### **3.3 External Validation of Remuneration and Expenses**

- 3.3.1 Appeals Body members' remuneration and expenses are validated externally through the annual budget setting process where proposals are presented to, and agreed by Ofcom following consultation with stakeholders.

## **4. CODE OF CONDUCT**

### **4.1 Principles**

- 4.1.1 This Handbook sets out the standard of conduct expected of all Appeals Body members in the performance of their office, with the objective of maintaining the highest levels of integrity, impartiality and objectivity and of promoting the effectiveness with which they perform their role. Members must identify for themselves any possible conflicts of interest which may arise and to be aware of the appropriate action they should take.
- 4.1.2 Appeals Body members are expected to commit themselves to the spirit of the Handbook as well as to its specific provisions and will be asked to sign an undertaking that they will comply with it (Appendix A).

### **4.2 Overriding General Duty**

- 4.2.1 The overriding duty of an Appeals Body member is to act independently and fairly, and not pursuant to any business, group or personal interest.
- 4.2.2 A conflict of interest arises where an individual with a responsibility to act as an impartial Appeals Body member may be affected, or may be thought by an independent observer to be affected, in that action by a personal interest or association. Such a conflict may involve a direct or indirect financial interest but may also be non-financial - for example a present or past business or personal association or relationship.
- 4.2.3 Appeals Body members are required to disclose direct or indirect financial interests which might give rise to a conflict of interest relating to his or her duties as an Appeals Body member. Disclosure is also required of any non-financial interest (such as kinship or a past, present or prospective business relationship) which might influence his or her judgement as an Appeals Body member.

### **4.3 Standing Declaration of Interest**

- 4.3.1 On appointment each Appeals Body member is required to complete a confidential standing declaration of interest (Appendix B). This declaration should list any relevant material financial interest, including investments, contracts and consultancies, held either personally, as a trustee or as an effective controller of a company (whether or not this is achieved by a majority interest).

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<sup>1</sup> Rates change annually, usually in January. Current rates in force should be checked with the Company Secretary before making and submitting a claim.

- 4.3.2 This declaration should also cover the relevant financial interests of the Appeals Body member's spouse or partner, and any children under 18. It should also cover any relevant non-financial interests or connections. Any changes in these interests must also be declared as and when they occur.
- 4.3.3 In this context "relevant" includes, but is not necessarily limited to, all aspects of the telecommunications and related industries. What is "material" is any interest which could reasonably be perceived as sufficient to place an Appeals Body member in the position of having a potential conflict of interest. In doubtful or borderline cases, Appeals Body members should disclose their interest or seek advice from the Chairman of the Board of PhonepayPlus.
- 4.3.4 Any Appeals Body member who acquires a direct interest in a premium rate service or whose spouse or partner (connected person) acquires such an interest must resign unless the Chair and an independent person appointed by the PhonepayPlus Board both specifically resolve to the contrary.
- 4.3.5 The content of standing declarations of interest will be made publicly available by PhonepayPlus. Guidance regarding such declarations are set out in Appendix C.

#### **4.4 Specific Disclosure of Conflict of Interest**

- 4.4.1 In addition to a standing declaration of interest, disclosure must be The Appeals Body member concerned should normally declare that there is a possible conflict and withdraw from sitting on an Appeal Tribunal in which it may become material and must not take any part in decision-making in that case.
- 4.4.2 In exceptional cases where disclosure of the nature of the possible conflict of interest might involve a breach of other duties (of confidentiality, for example), the Member may withdraw from consideration of the matter without specifying the nature of the possible conflict of interest. In such cases, the Member's continuing membership of the Appeals Body must be discussed with the Chair.
- 4.4.3 Where a possible conflict of interest can be anticipated, the Appeals Body member should exclude himself or herself from distribution of documents or attendance at any relevant meeting for the agenda item concerned.

#### **4.5 Confidential Information and Insider Dealing**

- 4.5.1 Appeals Body members must not disclose confidential information to the media or the public, or use confidential information for their own financial or other advantage. Members should be aware of, and abide by, PhonepayPlus' policy on personal data and confidential information.
- 4.5.2 Appeals Body members should treat all papers provided to them by PhonepayPlus as confidential unless otherwise advised and unless the documents are known to be in the public domain and/or published on the PhonepayPlus website. Members should not discuss the content of Appeals Body tribunals with others outside PhonepayPlus. Members must undertake to store and dispose of papers in the securest possible way and either arrange for them to be destroyed through secure means at PhonepayPlus' offices or ensure that they are otherwise securely destroyed.
- 4.5.3 Appeals Body members must not speak on a public platform or to the media, nor present themselves as a representative of PhonepayPlus unless and until this has been agreed by the Chairman of the Board. Where members are speaking on public platforms in other capacities, they should ensure there is no reasonable possibility that their comments could be seen to be attributed to PhonepayPlus and/or be perceived to represent a PhonepayPlus view point.

- 4.5.4 Appeals Body members must not acquire or dispose of investments if they hold any information relevant to such investments through their involvement with PhonepayPlus if such information is unpublished price-sensitive information.
- 4.5.5 Price-sensitive information means any specific information which would be liable to affect the price of a company's security. Price-sensitive information includes, but is not necessarily limited to:
- a any proposed take-over or merger,
  - b any potential company insolvency,
  - c unpublished information as to company profits or losses,
  - d any unannounced decision by a company in relation to dividend payments,
  - e any unannounced decision by a company about changes to the price levels or structures of its services,
  - f any unannounced decisions by a company to enter a new market or leave an existing market,
  - g any relevant PhonepayPlus investigation or impending sanction.
- 4.5.4 In case of doubt, unpublished and confidential information should be treated as being price-sensitive.
- 4.5.5 These provisions on confidential information and insider dealing continue to apply without time limit after an Appeals Body member's appointment has finished.

#### **4.6 Gifts and Hospitality**

- 4.6.1 To avoid the possibility that the integrity or objectivity of Appeals Body members may be put at risk, or be considered at risk, the offer or receipt of any relevant personal gift or hospitality from a member of the premium rate services industry must be reported to the Chair if its monetary value is greater than £40 (Appendix D).
- 4.6.2 If an Appeals Body member is aware in advance of the possibility that a gift or hospitality worth more than £40 may be offered by anyone connected with the premium rate services industry, clearance should be obtained from the Chair.
- 4.6.3 The Company Secretary of PhonepayPlus will keep a register of all reported gifts and hospitality, as notified by the Chair. These will be made available to the public by PhonepayPlus.
- 4.6.4 Isolated gifts of a trivial nature or minor seasonal items such as calendars or diaries may be accepted. Offers of conventional hospitality (such as a working lunch, working dinner or refreshments during meetings) may be accepted from individuals and organisations external to PhonepayPlus where it is normal and reasonable in the circumstances. However, such hospitality, where accepted, must be registered if its nominal value exceeds the limit above.

#### **4.7 Failure to Observe Standards**

- 4.7.1 Appeals Body members failing to perform the duties required of them in line with their role or the general standards expected in public life or the specific provisions of this Code, or being unfit to perform these duties, will be judged as failing to carry out the duties of their office.
- 4.7.2 Such failure may result in their removal from office. This will be a decision for the Chair, in consultation with the Chairman of the Board.

**Appendix A**

**UNDERTAKING**

**To the Chair of the Appeals Body**

**PhonepayPlus**

I,....., a Member of the Appeals Body of PhonepayPlus

CONFIRM that I have read the Appeals Body Members' Handbook

and

UNDERTAKE to comply with the letter and spirit of its provisions.

**Signed .....**

**Dated .....**

**Appendix B**

**STANDING DECLARATION OF INTEREST**

**To The Chair of the Appeals Body**

**PhonepayPlus**

This declaration lists any relevant material financial interest, including investments, contracts and consultancies, held either personally, as a trustee or as an effective controller of a company (whether or not this is achieved by a majority interest).

1. Financial interests

I have an interest/acquired an interest/no longer have an interest in:

.....  
[name of company or organisation]

This interest takes the form of:

.....  
[e.g. shares, contracts, consultancy]

**Capacity:**

- |                   |                       |
|-------------------|-----------------------|
| Self              | [delete as necessary] |
| As Trustee        | [delete as necessary] |
| As Controller     | [delete as necessary] |
| Spouse or Partner | [delete as necessary] |
| Children under 18 | [delete as necessary] |

2. Non-financial interests

I have the following directorships/kinship/present or past business or personal associations/memberships of associations or societies or other relationships which may be relevant to my work as an Appeals Body Member:

.....  
.....  
.....  
.....

**Signed** .....

**Dated** .....

## Appendix C

### PROCEDURE FOR DEALING WITH STANDING DECLARATIONS OF INTEREST

New Appeals Body Members should send a declaration of interest to the Chair of the Appeals Body within a month of appointment.

The Chair will consider the declaration, then pass it to the Company Secretary of PhonepayPlus, who will consider it. The Chair and Company Secretary will each initial and date the declaration to show that they were cognisant of its content.

All declarations will at all times be sent to the Company Secretary and marked confidential. The Company Secretary will be responsible for ensuring that all declarations are made publicly available.

For the purposes of the guidance below, 'industry' is taken to mean any organisation or individual involved, for profit or not, with the connectivity, advertising, promotion, or production of content for premium rate services (PRS). Other 'relevant bodies' are taken to mean organisations with a specific interest in PRS issues as defined above, such as trade bodies. Where members are uncertain as to whether an interest should be declared they should seek further guidance from the Company Secretary or, where it may concern a particular issue to be considered at a meeting, from the Chairman of that meeting.

If members have interests not specified in these notes but which they believe could be regarded as influencing their advice they should declare them. This could include close personal friendships. Members should make reasonable enquiries to determine links of which they might be expected to be aware, for example, either through the interests of close family members or links of direct ownership between one company and another. For the purposes of this Code, 'close family members' is taken to mean spouses, partners, parents, children, brothers, and sisters.

Categories of Personal Interests include but are not necessarily limited to:

- **Consultancies and/or direct employment:**
- **Fee-paid Work:**
- **Shareholdings:**
- **Clubs and other organisations** with an interest or involvement in the work of PhonepayPlus.

Categories of non-Personal Interests include but are not necessarily limited to:

- **Fellowships:**
- **Payment or other form of support by industry or other relevant bodies:**
- **Trusteeships:**

The Chair will consider the declaration on receipt and will review all declarations annually.

Members are under an obligation to notify any changes to their standing declaration of interest. All the above procedures will apply

**Appendix D**

**GIFTS AND HOSPITALITY**

**To the Chair of the Appeals Body**

**PhonepayPlus**

I,....., a member of the Appeals Body of the Independent Committee for the Supervision of Standards of Telephone Information Services, hereby confirm that I have

been offered [delete as necessary]

received [delete as necessary]

the following gift or hospitality having a monetary value greater than £40:

.....

.....

from the following member of the premium rate services industry:

Name:.....

Company:.....

**Signed** .....

**Dated** .....



INDEPENDENT APPEALS BODY

EXPENSE CLAIM FORM

NAME: .....

AUTHORISED BY.....

SIGNATURE: .....

SIGNATURE.....

DATE: .....

DATE.....

- PLEASE ENSURE ALL RECEIPTS ARE ATTACHED TO THIS FORM
- PLEASE PROVIDE FULL DETAILS OF THE EXPENSE INCURRED

Date	Details	Dept Code	Expense Code	NET	VAT	TOTAL	Finance Use Only P11D
<b>TOTAL</b>							