

8 - THE JUDICIAL PANEL

A Division of The Football Association
(UK Registered Number: 77797)
Wembley Stadium, London, HA90WS

TERMS OF REFERENCE FOR THE COMPOSITION AND OPERATION OF THE JUDICIAL PANEL

1. INTRODUCTION

- 1.1 Pursuant to the Articles of Association (the **“Articles”**) and the Standing Orders (the **“Standing Orders”**) of The Football Association (**“The Association”**) the Council of The Association (**“Council”**) has established the Judicial Panel (the **“Judicial Panel”**) from which individuals shall be drawn to sit on regulatory commissions and on appeal boards against decisions of a Regulatory Commission in connection with the game of association football played in England. Council has provided for the due discharge by the Judicial Panel of its function as referred to above, in accordance with these terms of reference.
- 1.2 Unless otherwise defined in these terms of reference (the **“Terms”**), words and expressions shall have the same meaning as set out in the Articles or the Rules of The Association as amended from time to time.

2. DEFINITIONS

In these Terms:

“Appeal Board” means any appeal board drawn from the Judicial Panel in order to hear appeals from a Regulatory Commission or otherwise;

“Appeal Board Chairs’ Panel” means the panel of individuals comprising Barristers or Solicitors of seven or more years’ standing and from whom a chair of each Appeal Board shall be drawn pursuant to Clauses 5 and 7.3;

“Chairs’ Panel” means any member selected from the Council Panel Members list or the Football Panel Members list or the Specialist Panel list to be appointed as a Chair of Regulatory Commissions;

“Compliance Monitoring Group” means any compliance monitoring group established by the FRA from time to time;

“Council Panel Members” means those individuals who are appointed by the Committees Appointment Panel of Council from among Members of Council from time to time by the JPMG to be Panel Members in accordance with Clauses 4.1.1 and 4.2 to 4.4;

“Effective Date” means 1st July 2019;

“Football Panel Members” means those individuals with appropriate experience of the game of association football who are appointed from time to time by the FRA to be Panel Members in accordance with Clauses 4.1.3, 4.2 and 4.5;

“FRA” means The Football Regulatory Authority of The Association;

“FRA Budget” means the budget for the establishment, development and operation of the FRA, including the expenses of the Judicial Panel, as approved by the Board from time to time;

“FRA Chair” means the chair of the FRA appointed from time to time;

“FRA Commissioner” means any person who is appointed as a commissioner of the FRA from time to time;

“Independent” For the purposes of being selected to sit as a member of a Regulatory Commission or an Appeal Board, **“Independent”** shall mean a person who at the time of his appointment (or at any time up to three years prior thereto):

- shall not be or have been a Member of Council;
- shall not be or have been an employee, director or officer of, nor have or have had a Material Business Relationship with, the appellant or the respondent in the appeal proceedings;
- shall not be or have been an employee, director or officer of, nor have or have had a Material Business Relationship with, a Participant who the Judicial Panel Chair reasonably considers to have a material interest in the outcome of the appeal proceedings.

Further, in accepting an appointment as an **“Independent”** member of the Regulatory Commission or an Appeal Board, the person shall confirm to the Judicial Panel Chair or its nominee that there are no circumstances known to them likely to give rise to any justified doubts as to his independence.

Save in the case of willful disregard for these criteria the question of whether a person is Independent shall not be capable of challenge.

“Judicial Panel Chair” means the chair of the Judicial Panel, as appointed by the FRA from time to time in accordance with Clause 9;

“Judicial Panel Monitoring Group” means the group of that name established by the FRA;

“Legal Panel Members” means professionally qualified Barristers or Solicitors and/or appropriately experienced individuals who are appointed from time to time by the FRA and/or the Judicial Panel Monitoring Group to be Panel Members.

“Material Business Relationship” means as between an individual and the relevant body, a significant commercial relationship including but not limited to one under which the individual receives from the body, payment of remuneration by fees or rent or otherwise (save for properly incurred expenses). **“Individual”** includes any person connected with that individual as a spouse, civil partner, widow, widower, former spouse, former civil partner, parent, step or adopted parent, grandparent, child, step child, adopted child, descendant, qualifying co-habitant or next-of-kin;

“Panel Members” means together, the Council Panel Members, the Football Panel Members and the Specialist Panel Members and the Legal Panel Members of the Judicial Panel from time to time;

“Regulatory Commission” means any regulatory commission drawn from the Judicial Panel from time to time in order to hear cases and pre-hearings from the FRA or otherwise; and

“Specialist Panel Members” means professionally qualified and/or appropriately experienced individuals (who, if Barristers or Solicitors, shall be of seven or more years' standing) who are appointed from time to time by the FRA to be Panel Members in accordance with Clauses 4.1.3, 4.2 and 4.5.

3. ESTABLISHMENT AND PURPOSE OF THE JUDICIAL PANEL

3.1 The Judicial Panel was established by Council as the group of individuals from which Regulatory Commissions and Appeal Boards will be drawn by the Judicial Panel Chair or its nominee, to hear cases or appeals in connection with disciplinary and other regulatory processes of The Association.

3.2 Council delegates to the Judicial Panel the power to undertake the following functions:

- 3.2.1 establishing, and appointing individuals to sit on, Regulatory Commissions and Appeal Boards;
- 3.2.2 appointing members of, delegating the appropriate power to, and co-ordinating and controlling the operation of any sub-committees and other bodies or persons, as necessary; and
- 3.2.3 such other responsibilities and activities as Council may from time to time decide.

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- 3.3 Any hearings, appeals, deliberations or proceedings of any description held pursuant to or arising from the operation of the Rules and regulations of The Association which are in progress as at the Effective Date shall continue thereafter and those authorised by The Association prior to the Effective Date to hear such proceedings shall continue to be fully competent to complete the business in question thereafter using the application of the Rules and regulations of The Association in force immediately prior to the Effective Date.

4. THE JUDICIAL PANEL

- 4.1 Subject to Clauses 4.6 and 8, the Judicial Panel will consist of five categories of Panel Member as follows:
- 4.1.1 Council Panel Members;
 - 4.1.2 Legal Panel Members who are appointed by the Judicial Panel Monitoring Group and/or the FRA;
 - 4.1.3 Football Panel Members who are appointed by the Judicial Panel Monitoring Group and/or the FRA;
 - 4.1.4 Chairs' Panel, including the Judicial Panel Chair, who are appointed by the FRA to sit as Chairs of Regulatory Commissions; and
 - 4.1.5 Specialist Panel Members, who shall not be, and shall not have been at any time in the immediately preceding three years, a Member of Council.
- 4.2 Subject to Clauses 4.6 and 8, each Council Panel Member shall hold office for a year and shall be eligible for further terms. Subject to Clauses 4.6 and 8, each Legal Panel Member, Football Panel Member and each Specialist Panel Member shall hold office for a term of three years and shall be eligible for further terms. Panel Members are not subject to retirement by rotation.
- 4.3 The Committees Appointment Panel shall at each Summer Meeting of Council appoint the Council Panel Members.
- 4.4 The Council Panel Members of the time being may at any other time appoint a Member of Council to be a Council Panel Member in order to fill a vacancy arising, due to early retirement, removal or otherwise, between Summer Meetings of Council. Any such Council Panel Member appointed in accordance with this Clause 4.4 shall remain in office until the next following Summer Meeting and thereafter shall be subject to the appointment process as referred to in Clause 4.3 above.
- 4.5 The FRA may at any other time appoint a person to be a Legal Panel Member, Football Panel Member, a Specialist Panel Member or a member of the Chairs' Panel, as appropriate, in order to fill any vacancies arising due to early retirement, removal, necessity or otherwise. Any such Legal Panel Member, Football Panel Member, Specialist Panel Member or member of the Chairs' Panel appointed in accordance with this Clause 4.5 shall retire at the time when the respective vacating Legal Panel Member, Football Panel Member or Specialist Panel Member would otherwise have retired but shall be eligible for further re-appointment. For the purposes of Clause 4.2, if s/he is re-appointed, their first term of office shall be deemed to have commenced on the date on which they were re-appointed pursuant to this Clause 4.5.

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- 4.6 No person may be appointed as a Panel Member:
 - 4.6.1 unless they have attained the age of 18 years; or
 - 4.6.2 in circumstances such that, had they already been a Panel Member, they would have been disqualified from acting under the provisions of Clause 8; or
 - 4.6.3 if they have at any time in the twelve months prior to their appointment been personally employed or otherwise engaged in any capacity by the FRA, other than as an FRA Commissioner PROVIDED THAT a FRA Commissioner shall not be eligible to be a Panel Member if they are or have at any time in the twelve months prior to their appointment been, a member of the Compliance Monitoring Group.

5. APPEAL BOARD CHAIRS' PANEL

- 5.1 The Appeal Board Chairs' Panel shall consist of Specialist Panel Members.
- 5.2 Any vacancies shall be filled by the FRA. No person who has been a member of the Board or Member of Council within the previous five years shall be eligible. Only members or former members of the judiciary, Queen's Counsel, junior Barristers or Solicitors of more than 10 years standing shall be eligible.
- 5.3 Subject to Clause 5.4 below, members of the Appeal Board Chairs' Panel shall be eligible for re-election every 4 years.
- 5.4 The appointment of a member of the Appeal Board Chairs' Panel shall cease if:
 - 5.4.1 by notice in writing to the Judicial Panel Chair, he or she resigns from the Appeal Board Chairs' Panel; or
 - 5.4.2 becomes bankrupt or makes any arrangement or composition with their creditors; or
 - 5.4.3 being a director, they cease to hold office as director of any company by reason of any order made under the Company Directors Disqualification Act 1986, as amended from time to time; or
 - 5.4.4 if being a practising Solicitor or Barrister, they are struck off the Roll of Solicitors or suspended from practice by the Solicitors Disciplinary Tribunal or disqualified, suspended or struck off by the Bar Council (as the case may be) for any reason; or
 - 5.4.5 they die or become incapable by reason of mental disorder, illness or injury of managing and administering their own affairs; or
 - 5.4.6 they no longer comply with the provisions of any regulations of The Association relating to "Fit and Proper Persons" as shall be in force from time to time pursuant to paragraph J1.6 of the Rules; or
 - 5.4.7 they are convicted of any criminal offence other than any minor motoring or similar offence that cannot reasonably damage the reputation of the Judicial Panel or The Association.

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6. REGULATORY COMMISSIONS

- 6.1 The powers in the Rules and the regulations of The Association to impose penalties or other orders for Misconduct (as defined in the Rules), and the power to impose an interim suspension order before charge pursuant to Rule E16, where possible Misconduct is alleged or under investigation, shall be exercised by a Regulatory Commission, save for the imposition of those penalties or other order for Misconduct which the Council decides, or the Rules and the regulations of The Association deem are matters reserved for the FRA. Each Regulatory Commission shall be established by the Judicial Panel Chair, or in its absence, its nominee, pursuant to Clauses 3.1 and 3.2.
- 6.2 Subject to Clause 6.3, the composition of any Regulatory Commission established for a hearing shall be determined by the Judicial Panel Chair or its nominee applying a selection policy established by the Judicial Panel Chair and the FRA PROVIDED THAT:
- 6.2.1 any party who is to go before a Regulatory Commission (other than a "Fast Track" Regulatory Commission) may make an application to the Judicial Panel Chair, within 7 days of the charge being issued and upon notice to any other relevant party, for an order that the chair of that Regulatory Commission shall be a Specialist Panel Member. Approval by the Judicial Panel Chair of such application shall not be unreasonably withheld or delayed and any additional costs incurred in respect of having such a Specialist Panel Member as the chair of that Regulatory Commission (whether or not the applicant be successful in the relevant hearing before such Regulatory Commission), shall be borne by the party who made the application; and
- 6.2.2 Subject to Clause 6.2.1 above and this clause, only members from the Chairs' Panel may be appointed by the Judicial Panel Chair (or in its absence, its nominee) to act as chair of that Regulatory Commission. If the Chair is not present within 15 minutes after the appointed time for holding the hearing, the Judicial Panel Chair, (or in its absence, its nominee), shall appoint another member of the Regulatory Commission to act as Chair.
- 6.3 A person shall not be deemed to be competent to serve on a Regulatory Commission if they have pending before them as a serving member of an Appeal Board a matter or decision with which another Panel Member of the proposed Regulatory Commission is concerned.
- 6.4 If a member of a Regulatory Commission doubts their ability to be impartial, or believes there to be a materially conflicting interest in the proceedings, they shall declare it as soon as possible, and unless all parties waive it and request the member to act, then the member shall withdraw completely from the proceedings.
- 6.5 The Judicial Panel Chair (or in its absence, its nominee) shall appoint another to fill any vacancy that arises on a Regulatory Commission prior to a hearing. Where a vacancy or vacancies occur in a Regulatory Commission after the commencement of a hearing, the hearing shall cease and a new hearing arranged before a freshly constituted Regulatory Commission, unless the parties consent to the remaining members continuing.

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7. APPEAL BOARDS

- 7.1 Subject to Clause 7.7, the powers in Rule H and the regulations of The Association to hear cases or appeals shall be exercised by an Appeal Board and each Appeal Board shall be established by the Judicial Panel Chair (or in its absence, its nominee) pursuant to Clauses 3.1 and 3.2.
- 7.2 Subject to Clauses 7.3 and 7.4, the composition of any Appeal Board established for and empowered to hear an appeal shall be determined by the Judicial Panel Chair applying a selection policy established by the Judicial Panel Chair and the FRA. PROVIDED THAT all Appeal Boards shall: (i) consist of two members who are not Council Panel Members; and (ii) include one member (other than the chairman of the Appeal Board) who is Independent.
- 7.3 An individual from the Appeal Board Chairs' Panel shall be appointed by the Judicial Panel Chair (or in its absence, its nominee) to act as chair of an Appeal Board.
- 7.4 A person shall not be deemed to be competent to serve on an Appeal Board if they have pending before them as a serving member of a Regulatory Commission a matter or decision with which another Panel Member of the proposed Appeal Board is concerned.
- 7.5 If a member of an Appeal Board doubts their ability to be impartial, or believes there to be a materially conflicting interest in the proceedings, they shall declare it as soon as possible, and unless all parties waive it and request the member to act, then the member shall withdraw completely from the proceedings.
- 7.6 The Judicial Panel Chair (or in its absence, its nominee) shall appoint another to fill any vacancy that arises on an Appeal Board prior to a hearing. Where a vacancy or vacancies occur in an Appeal Board after the commencement of a hearing, the hearing shall cease and a new hearing arranged before a freshly constituted Appeal Board, unless the parties consent to the remaining members continuing.
- 7.7 For the purposes of appeals under The Association's Anti-Doping Regulations only, members of an Appeal Board (as defined by the Rules of The Association) shall be appointed by an independent party (other than the Judicial Panel Chairman) from outside of the Judicial Panel, pursuant to terms of reference agreed between the Association and the independent party from time to time.

8. DISQUALIFICATION OF THE PANEL MEMBERS

- 8.1 The appointment of a Panel Member shall cease if:
 - 8.1.1 by notice in writing to the Judicial Panel Chair, they resign from the Judicial Panel; or
 - 8.1.2 being a Specialist Panel Member, they accept a position which would make them ineligible for appointment under Clause 4.1.4; or
 - 8.1.3 they are appointed as a member of the Compliance Monitoring Group; or
 - 8.1.4 being a Council Panel Member, they cease to be a Member of Council; or
 - 8.1.5 if being a Solicitor or Barrister, they are struck off the Roll of Solicitors or suspended from practice by the Solicitors Disciplinary Tribunal or disqualified, suspended or struck off by the Bar Council (as the case may be) for any reason; or
 - 8.1.6 they become bankrupt or make any arrangement or composition with their creditors generally; or
 - 8.1.7 being a director, they cease to hold office as director of any company by reason of any order made under the Company Directors Disqualification Act 1986, as amended from time to time; or

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- 8.1.8 they die or become incapable by reason of mental disorder, illness or injury of managing and administering their own affairs; or
 - 8.1.9 they no longer comply with the provisions of any regulations of The Association relating to "Fit and Proper Persons" as shall be in force from time to time pursuant to paragraph J1.6 of the Rules; or
 - 8.1.10 they are the subject of a decision of The Association, UEFA or FIFA that they be suspended permanently or for a specified period from taking part in football management and/or football administration and/or any football related activity pursuant to any applicable disciplinary provisions under the rules or statutes of UEFA or FIFA (as appropriate); or
 - 8.1.11 they are convicted of any criminal offence other than any minor motoring or similar offence that cannot reasonably damage the reputation of the Judicial Panel or The Association.
- 8.2 Where Clause 8.1 becomes applicable to a Panel Member serving on an Appeal Board or a Regulatory Commission, the remaining two Panel Members on such Appeal Board or such Regulatory Commission may agree unanimously that he or she shall not cease to be a Panel Member until the conclusion of that hearing or appeal, as the case may be.

9. THE JUDICIAL PANEL CHAIR

- 9.1 The Judicial Panel Chair shall be appointed by the FRA for a term of 3 years, unless he or she resigns from the chair. Upon the expiry of the first period of office, any Judicial Panel Chair shall be eligible for re-appointment for one further term of 3 years.
- 9.2 The FRA, at any other time may appoint another person to be the Judicial Panel Chair in order to fill a vacancy arising due to early retirement, removal or otherwise. Any such Judicial Panel Chair appointed in accordance with this Clause 9.2 shall retire at the time the vacating Judicial Panel Chair would otherwise have retired, subject to Clause 9.1 above.

10. FINANCES

- 10.1 The expenses of the Judicial Panel and the Appeal Board Chairs' Panel shall be paid by the FRA. For the avoidance of doubt, nothing in this Clause shall prejudice the right of a Regulatory Commission or an Appeal Board to make an order for costs.
- 10.2 Pursuant to the FRA Budget, each member of a Regulatory Commission or Appeal Board may be paid an attendance allowance in respect of their attendance at hearings of the Regulatory Commission or Appeal Board in question at the level determined by the Board, together with reimbursement of reasonable out-of-pocket expenses.
- 10.3 Arrangements may be made for the reasonable remuneration of any chair of an Appeal Board and any Specialist Panel Member when serving on an Appeal Board or a Regulatory Commission at the level determined by the Board.

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11. AMENDMENT AND DISSOLUTION

- 11.1 These Terms shall not be amended in any way save with the written agreement of Council. Any amendment made pursuant to this Clause 11.1 shall be binding on the Panel Members, all employees of The Association and committee members of the Judicial Panel and any others acting in any capacity for the Judicial Panel whatsoever, with immediate effect.
- 11.2 The Judicial Panel and the Appeal Board Chairs' Panel may be discharged at any time by Council.
- Original Approved at Council on 29 May 2007
- Definition of "Panel Members" amended at Council on 11 March 2008
- Revised and approved by Council on 28 June 2011
- Revised and approved by Council on 23 May 2019