

Information about membership of the Code of Practice Appeal Board

In addition to the independent Chair, there are up to eight independent members of the Code of Practice Appeal Board, comprised of:

- three independent registered medical practitioners appointed following a check of the individual's credentials and history as held on the General Medical Council website – one of the three appointees must have recent experience as a general practitioner and one must have recent experience as a hospital consultant treating patients
- two independent registered pharmacists appointed following a check of the individual's credentials and history as held on the General Pharmaceutical Council website
- one independent registered senior nurse practitioner (minimum Band 7 or equivalent) appointed following a check of the individual's credentials and history as held on the Nursing and Midwifery Council website
- one independent member representing the interests of patients
- one independent lay member

Also on the Appeal Board are up to:

- four registered medical practitioners who are medical directors or senior executives of pharmaceutical companies, and
- four directors or senior executives from pharmaceutical companies.
- One of the members from pharmaceutical companies may be retired, provided that the initial appointment is made within one year of the date of retirement.

Appeal Board members are appointed by the Association of the British Pharmaceutical Industry (ABPI) Board with appointment decisions formally delegated to the ABPI Governance Committee from May 2024. Independent members are appointed by the ABPI Board following consultation with the Medicines and Healthcare Products Regulatory Agency (MHRA) (Paragraph 3.3 of the Prescription Medicines Code of Practice Authority (PMCPA) Constitution and Procedure). There is also a list of persons approved for co-option to the Code of Practice Appeal Board, so as to enable a quorum to be achieved. Co-optable members from industry are appointed by the ABPI Board. Previous industry and independent members may also be co-opted.

Members of the Appeal Board (other than its Chair) are appointed for a term of three years and may be reappointed but they may serve for no more than two consecutive terms. In exceptional circumstances, the Chair may nominate a member who has served for two terms for reappointment for a third term. A member of the Appeal Board who has served two, or following the Chair's nomination, three consecutive terms of service is eligible for reappointment after an interval of at least one year. (Paragraph 3.2).

The role of the Code of Practice Appeal Board

Initial rulings upon complaints made under the ABPI Code of Practice for the Pharmaceutical Industry are made by the Code of Practice Panel, which is comprised of at least two members of the Authority. (Paragraph 2).

Either party can appeal against the rulings of the Panel to the Code of Practice Appeal Board. The Appeal Board is the final arbiter as to whether or not there has been a breach of the ABPI Code. (Paragraph 12).

The Appeal Board also receives reports on all complaints which have been settled at Panel level, that is to say where the Panel's decisions have been accepted without appeal. (Paragraphs 4.1 and 11.1). The majority of cases are not appealed.

The Appeal Board also receives certain formal reports from the Panel or Authority. (Paragraphs 10.1 and 10.2). Other formal reports can also be made. (Paragraph 13.2).

The Appeal Board may impose additional sanctions upon a company ruled in breach of the ABPI Code including in relation to cases settled at Panel level. (Paragraphs 10, 12 and 13).

The Appeal Board may report companies to the ABPI Board. (Paragraph 14).

The Chief Executive reports to the Appeal Board for guidance on the interpretation of the Code. The Appeal Board also has a supervisory role in relation to the operation of the complaints procedure. The Chief Executive must provide a regular status report to the Appeal Board on complaints submitted under the Code and details of the action taken on them. If the Appeal Board has concerns about the operation of the complaints procedure, those concerns should be raised with the Chief Executive and, at the Appeal Board's discretion, may be escalated to the President of the ABPI through the Chair of the Appeal Board (Paragraph 1.5).

The Chief Executive may consult the Chair of the Appeal Board or the Appeal Board upon any matter concerning the Code or its administration (Paragraph 1.7).

Overriding Objective

The overriding objective of the Constitution and Procedure is to ensure that cases are dealt with fairly and justly while protecting patient safety. When making procedural and discretionary decisions, members of the Authority, the Appeal Board and any independent referee must act in a way they consider most likely to further the overriding objective. All parties, including the complainant and respondent, must take all reasonable steps to assist the PMCPA and the Appeal Board to further the overriding objective. (Paragraph 1.10),

Meetings of the Code of Practice Appeal Board

The Code of Practice Appeal Board usually meets at 2nd Floor Goldings House, Hay's Galleria, 2 Hay's Lane, London, SE1 2HB.

Meetings start at 10am and usually continue on into the early afternoon. Members must schedule their diaries to ensure that, if business dictates, they are available to attend for the whole day. The independent member honorarium is paid on the basis that members will be available for the entire day. Eleven meetings are scheduled for each calendar year, one for each month (except August). Occasionally particular meetings are cancelled because of a lack of business to consider. Two additional provisional meetings are scheduled for in case there is more business than can be accommodated at the normal meetings. There is also an annual training day/Appeal Board only meeting. The Chair also has an annual one to one informal appraisal with Appeal Board members conducted via Videoconference.

The role of members of the Code of Practice Appeal Board

Appeals/Reports

Each appeal or report which comes before the Code of Practice Appeal Board is the subject of detailed digital papers. The papers are shared via the OnBoard system. Training on the use of OnBoard is provided to all new members and refresher training is available if required.

These consist of the initial complaint and the respondent company's response, the minute of the Code of Practice Panel's consideration of the complaint and the resulting correspondence. If an appeal is to be considered, the papers will also include the letter of appeal and the other party's comments on it, and, in an appeal from the complainant, further comments on the company's response to the appeal, together with supporting evidence at each stage, such as published medical and scientific papers etc. It is essential that prior to meetings Appeal Board members read all of the correspondence and the Panel's minute and familiarize themselves with the supporting evidence. There is a substantial amount of detailed pre-reading to do in the week prior to a meeting and members must ensure they allow enough time for this.

Appeal Board members are required to declare certain interests as set out in the separate 'Declarations of Interest' document.

New material, ie material which has not been included in the papers submitted in relation to the case, cannot be introduced at the hearing. Members must not look up new information in relation to any matters, reading is restricted to the Appeal Board papers provided by PMCPA. Members should not look up the identity of attendees to an appeal/report online including on social media.

If, prior to a meeting, a member thinks that a potential conflict of interest is likely to result in him/her being barred from hearing an appeal or report, they should contact the Operations and Governance Manager of the PMCPA for advice so that, if necessary, alternative arrangements can be made to ensure that the Appeal Board remains quorate despite their absence.

If a member of the Appeal Board is involved in a case either as complainant or respondent, that member will not receive copies of the papers circulated in connection with the case or be present while the Appeal Board considers the case (Paragraph 4.8).

A company may not be represented before the Appeal Board by a representative who is also a member of the Appeal Board except with the consent of the Chair. Such consent may be given only if the Chair is satisfied that no other person within the company can properly represent it in the case in question (Paragraph 4.11).

At the meeting, the party or parties present will usually make a presentation in support of their position. A complainant not from a pharmaceutical company does not usually appear in person or seek representation at the appeal hearing, though they are fully entitled to do so. It is expected that members of the Appeal Board will ask questions of those appearing. If both parties are present then they communicate via the Chair, not directly. When the presentations and questions are at an end and the parties have left the meeting, members of the Appeal Board debate and decide, in relation to each ruling appealed, whether or not to uphold the Panel's decision ie whether or not there has been a breach of the ABPI Code. This is done on a show of hands, the Chair having both an original and a casting vote. Members are expected to participate in the discussion.

The arrangements are similar when the Appeal Board considers a formal report made under the Constitution and Procedure from the Panel or Authority except that only the respondent company is entitled to appear. The respondent company receives a copy of the report which includes the initial complaint, the company's response, the minutes of the Panel meeting, if relevant the minutes of the Appeal Board and the resulting correspondence.

A formal report is made with a view to the Appeal Board considering whether further sanctions are appropriate. A report is not an appeal of the Panel's rulings.

Other responsibilities

As noted above the main roles of the Code of Practice Appeal Board are to hear appeals against the decisions made by the Code of Practice Panel and to supervise the activities of the Code of Practice Panel. This includes but is not limited to review of certain guidance material, consultation on amendments to the Code and the Constitution and Procedure and oversight of ongoing audits that it has required.

At each Appeal Board meeting details of cases completed at the Code of Practice Panel level are provided to the Appeal Board to review to considering whether the case report can be published or whether additional sanctions might be required. Members of the Appeal Board are expected to raise any concerns and also provide any feedback on the rulings to the PMCPA, noting that rulings that are not the subject of appeal can not be amended.

The particular role of independent members

When the Appeal Board considers an appeal or a formal report, independent members, including the Chair, must be in the majority. (Paragraph 4.2). Independent members of the Appeal Board bring to its deliberations viewpoints from outside the pharmaceutical industry. The ABPI Code recognises and seeks to achieve a balance between the needs of patients, health professionals, the public and industry. It is important that outside opinions are available to the Appeal Board because the pharmaceutical industry's products and activities are directed towards health professionals invariably and may impact prescribing. The status of self regulation is enhanced by independent membership. The role of the independent member is a valued one.

Both independent and industry members of the Appeal Board are expected to participate fully in every meeting and bring an independent mind to the matters at hand. Industry members do not represent their companies.

Attendance

Members are expected to make every effort to attend meetings.

Publication of outcomes

The ABPI Code of Practice is operated transparently and the outcomes of all cases are published in detail on the PMCPA website www.pmcpa.org.uk.

Remuneration of independent members of the Code of Practice Appeal Board

In recognition of their time and effort, independent members of the Code of Practice Appeal Board are paid an annual retainer (£2,500) and an attendance fee for each meeting attended (£650). They are also reimbursed for their reasonable travel and subsistence costs.