PSA
Phone-paid Services Authority

Code Adjudication Panel Members' Handbook

July 2017

The UK regulator for content, goods and services charged to a phone bill

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Section 1: The Role of Phone-Paid Services Authority

1.1 About Phone-paid Services Authority

Phone-paid Services Authority is the UK's independent regulator for content, goods and services charged to a phone bill. This includes TV voting lines, competitions, adult entertainment, chat lines, business information services, gambling, technical helplines, game downloads, directory enquiries, and charity text giving. In law these are called Premium Rate Services (PRS), but we know that for many consumers the term is not well understood. Instead we aim to use terminology that everyone can recognise.

As a regulator our role is to make sure that consumers are fully protected when paying for content, goods and services through their phone bill. We do this by upholding the standards we set through our Code of Practice, and by eradicating scams and sharp practices in the market.

For clarity, it is not our role to get refunds for individual consumers (other organisations provide dispute resolution between consumers and providers), although this may happen as a consequence of any investigations we undertake and in particular as a result of decisions made by our independent Code Adjudication Tribunal.

Our vision:

Our vision is a healthy and innovative market in which consumers can charge content, goods and services to their phone bill with confidence.

Our mission:

Our mission is twofold:

- To protect consumers from harm in this market, including where necessary through robust enforcement of our Code of Practice;
- To further their interests through encouraging competition, innovation and growth in the market.

1.1.1 We will seek to do this through:

- Providing clarity about the market for content, goods and services charged to a phone bill:
    - Helping consumers to understand how purchases can be made to a phone bill, and how they can do so with confidence;
    - Setting out our role as a regulator, and directing consumers to those who can help with their enquires;
    - Explaining how consumers can get redress if things have gone wrong;
    - Working with industry, consumer and Alternative Dispute Resolution bodies to improve every part of the consumer experience;

1.1.2 Applying an outcomes-based Code of Practice:

- Building on industry-wide consultation and securing required approval from Ofcom;
- Supporting with clear guidance and compliance advice;
- Developing new Code versions to best address identified issues and opportunities;
- Achieving recognition for being fair and proportionate;

1.1.3 Delivering a balanced approach to regulation:

- Applying informal and policy-based solutions as well as robust formal enforcement activity;
- Enhancing our market and consumer behaviour knowledge, and identifying emerging trends;
- Engaging positively and constructively with industry, both collectively and with individual organisations;

1.1.4 Working in partnership with Government and other regulators:

- Establishing regulatory clarity where there is overlap both in terms of (a) content, goods and services; and (b) payment mechanism;
- Identifying relevant regulatory issues and influencing their potential impact on the market.

1.1.5 As a public body, we will underpin the delivery of our mission through:

- Delivering high standards of organisational support
- Maintaining our commitment to the principles of good governance;
- Ensuring our business systems are appropriate and fit for purpose;
- Managing our finances in line with our regulatory remit and market context;
- Developing and rewarding a highly motivated workforce;
- Providing responsive and accurate legal guidance.

Our core values:

We continue to adhere to the principles of good regulatory practice. In addition, our core values and behaviours underpin everything we do to deliver our mission:

Right touch

- **Fair and proportionate**
  Be fair reasonable and well-informed.
  Ensure our actions support good regulatory outcomes for all stakeholders and give certainty and confidence.

- **Aware of the bigger picture**
  Anticipate developments that may affect us and those around us.
  Be curious and inquisitive, ask questions and challenge assumptions. Be flexible and

enabling of responsible innovation.
Plan for the future and think of the impact of our work.

Collaborative

- **Open**
  Look outward, share ideas, listen to others and embrace their knowledge. Collaborate with everyone. Be approachable, transparent and accountable.

- **Decisive**
  Make decisions in a timely manner with confidence and clarity.

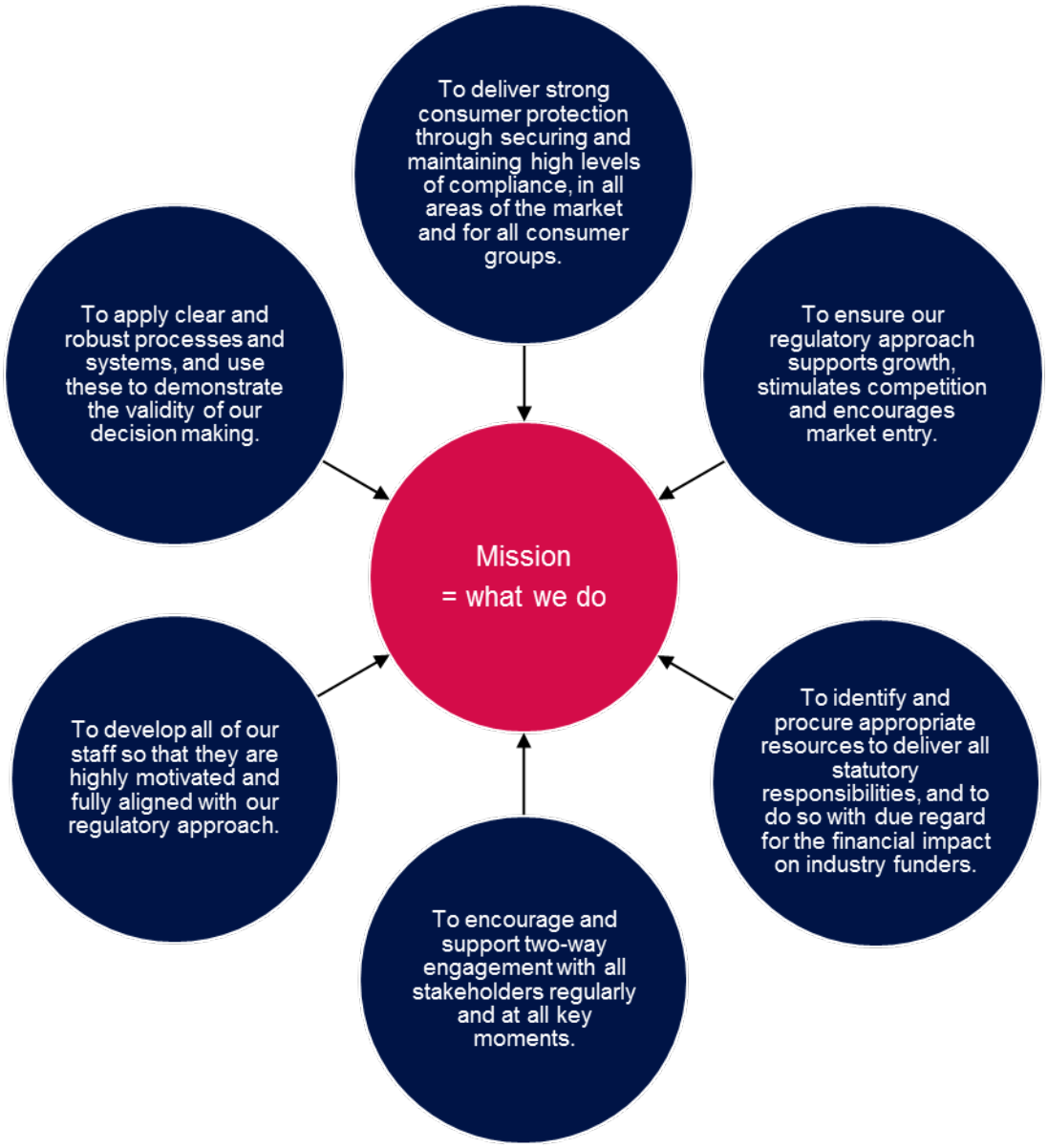
Value for money

- **Effective and productive**
  Pursue our priorities energetically.
  Get it right first time and swiftly deliver effective outcomes.
  Innovate to find creative solutions and work more efficiently

- **Professional**
  Be experts: we are role models and we support others.
  Be reliable because we are consistent, pay attention to detail and are focused on quality.

Our Strategic Priorities

Our mission describes what we do as an organisation. The six strategic priorities set out below provide the emphasis as to *how* we want to deliver our mission:



1.2 Regulatory Responsibilities

The regulatory function of Phone-paid Services Authority is to supervise the content, promotion and operation of premium rate services primarily by drawing up and enforcing a Code of Practice ('the Code').

The Code focuses on the underlying outcomes of consumer protection to achieve a regulatory regime that gives both greater clarity and more flexibility to providers of premium rate services. This involves the following principal tasks:

1. Setting and maintaining outcomes/standards and, as appropriate, requirements for the content, promotion and marketing and provision of premium rate services, and keeping these standards under review.
2. Monitoring premium rate services to ensure compliance with these standards.
3. Consulting widely with interested parties before changing these standards.
4. Providing a system for adjudications and administering a system for the payment of claims for compensation for unauthorised use of live services.
5. Investigating and adjudicating upon complaints relating to the content, promotion and marketing of premium rate services, which may include the imposition of sanctions upon providers or network operators.
6. Issuing directions, either generally or to individual providers of premium rate services, including network operators, to procure compliance with the Code and/or to secure enforcement of its provisions.
7. Determining any categories of premium rate services which may only be provided on the basis of compliance with Special Conditions (or the grant of a specific prior permission from Phone-paid Services Authority).
8. Keeping such categories and conditions under review, and receiving, considering and determining applications for prior permission.

In addition, Phone-paid Services Authority publishes reports on its work at regular intervals, and commissions research in support of policy and regulatory development.

Phone-paid Services Authority operates in accordance with the principles of good regulation promoted by the Government namely:

transparency; accountability; targeting; consistency; and proportionality.

1.3 Scope of the Code - Legal Framework

The regulatory powers of Phone-paid Services Authority derive from the Communications Act 2003 ('the Act'), specifically sections 120-124 dealing with the regulation of premium rate services. The Act provides Ofcom with the power to approve a Code for the purposes of regulating premium rate services and Ofcom has approved the Phone-paid Services Authority Code under Section 121 of the Act. Certain providers of premium rate services are obliged,

pursuant to the premium rate service condition ('the Condition') set by Ofcom under the Act and Section 120(3) (a) of the Act, to comply with directions given by Phone-paid Services Authority in accordance with its Code of Practice for the purpose of enforcing its provisions. The Condition set by Ofcom applies to controlled premium rate services, the definition of which is contained within Part Five of the Code.

The previous edition of the Code ("13th Code") brought parts of the Code into line with Ofcom's non-geographic call services (NGCS) changes, which came into effect on 1st July 2015. The Code is principles based and adopts the Ofcom requirement for a registration database as a central element of industry due diligence.

Phone-paid Services Authority regulates through the imposition of responsibilities on providers of premium rate services. Three categories of providers are defined in the Code under Part Five: essentially these are Network operators, Level 1 providers (who form part of a premium rate value-chain) and Level 2 providers (the end provider of the service). A provider of premium rate services may fall within more than one of these categories. Through the Code, Phone-paid Services Authority requires clear and accurate pricing information and honest advertising and service content. It can also require services deemed to be high risk to comply with Special Conditions set out in an Annex to the Code and has the power to require prior permission for certain service categories. Phone-paid Services Authority has the power to impose sanctions for any breach of its Code by the person/body providing or facilitating the provision of a PRS.

Under section 6 of the Human Rights Act 1998, there is a duty on Phone-paid Services Authority (as a public authority) to ensure that it does not act in a way that is incompatible with the European Convention on Human Rights ("the Convention"). Article 6 of the Convention provides for the right to a fair trial, which does not occur at Code Adjudication Panel Tribunal hearings where the respondent is not present. That is a function of the non-adversarial adjudicatory process. However, respondents have the right to an oral hearing, and to further appeal and these procedures ensure that Article 6 of the Convention is complied with.

Article 10 of the Convention provides for the right to freedom of expression. It encompasses the right to "impart information and ideas" and also the right to "receive information and ideas without interference by public authority". Such rights may only be restricted if the restrictions are "prescribed in law and necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health and morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary" (Article 10(2) of the Convention).

Phone-paid Services Authority must exercise its duty in light of these rights and not interfere with the exercise of these rights in premium rate services unless it is satisfied that the restrictions it seeks to apply are required by law and necessary in order to achieve a legitimate aim.

The 14th Code

Following a detailed review of our enforcement strategy in 2015, Phone-paid Services Authority introduced changes to its enforcement procedures by means of the introduction of the 14th edition of the Code of Practice.

The key changes are summarised as follows:

- Bringing forward the consideration of interim measures – i.e. withholds and/or suspensions – to an earlier stage in all Track 2 investigations.
- The establishment of the CAP to replace the Code Compliance Panel (CCP), which (unlike the CAP) included members from the Board. This demonstrates clear separation between those who make the Code – the Board – and those who enforce it.
- An internal mechanism to review the recommendations of the Investigations team before breaches and sanctions are outlined to the provider in a "Warning Notice".
- Enhanced potential for providers to settle cases once they have received the Warning Notice, and prior to a hearing.
- A more flexible hearing, which allows for different levels of oral and legal representation.

The 14th Code is underpinned by the Supporting Procedures which are available separately. The Supporting Procedures glossary of terms is attached as appendix G.

1.4 Relationship with Ofcom

Ofcom is the statutory regulator responsible for regulating the UK communications market. The Communications Act 2003, under which Ofcom was created makes provision for the regulation of premium rate services (PRS) as set out under s120-124 of the Act.

Phone-paid Services Authority is responsible for the exercise of regulatory, governance and operational functions in respect of the application and enforcement of the Code. Save where Phone-paid Services Authority refers a person's failure to comply with a direction to Ofcom, Ofcom has no role in relation to the application and enforcement of the Code. However, Ofcom has the powers set out in the Communications Act and may, amongst other things, withdraw its approval from the Code in accordance with section 121 of the 2003 Act.

Phone-paid Services Authority's relationship with Ofcom is governed by a Memorandum of Understanding (MoU). The most recent version, agreed in March 2015, can be found on the website under the publication scheme.

Ofcom and Phone-paid Services Authority have, for the purposes of managing the relationship between their organisations in accordance with the relevant statutory provisions and as set out in the MoU, agreed the following arrangements:

- A senior Ofcom officer, "the Sponsor", will be appointed and acts as an interface between the two organisations. The Sponsor is entitled to attend Phone-paid Services Authority Board meetings as an observer. Phone-paid Services Authority will provide information reasonably required by the Sponsor.

- Phone-paid Services Authority will consult with Ofcom on the decisions Phone-paid Services Authority proposes to make in relation to the recruitment (or re-appointment) of its Board and Chief Executive and will invite an Ofcom representative to sit on the appointment (and re-appointment) panels. All such appointments and re-appointments will be subject to approval by Ofcom.

- Phone-paid Services Authority and Ofcom will agree annual and medium term objectives, strategies and related funding arrangements. Final decisions on these matters rest with Ofcom but will be informed by recommendations from the Board based on their knowledge of the sector and relevant trends.

- Phone-paid Services Authority will consult on an annual basis with Ofcom in relation to Phone-paid Services Authority's proposed budget plan, which shall include its operational and policy plans and targets and its budget. The Phone-paid Services Authority budget and business plan will be subject to approval by Ofcom on an annual basis and shall be set within the framework of the Phone-paid Services Authority strategic plan. In addition, Phone-paid Services Authority will provide Ofcom with regular updates in relation to its business plan and budget. Phone-paid Services Authority will keep under review the PRS market and the appropriateness of Code provisions and consult with Ofcom where regulatory intervention is required and/or there are proposals for amending the Code.

- As part of any consultation in respect of decisions it proposes to take, Phone-paid Services Authority will have due regard to any views expressed by Ofcom as part of any consultation and in accordance with the terms as set out in the MoU between Phone-paid Services Authority and Ofcom.

Notwithstanding the above arrangements Ofcom has confirmed that it will not act in any way that obstructs Phone-paid Services Authority directors from acting in accordance with their legal responsibilities. It should also be noted that the MoU has no legal basis underpinning it.

1.5 Relationship with DCMS

PSA is classified by the Office for National Statistics as a Central Government body. While this classification remains in place, PSA shall be an Arms-Length Body (ALB) of DCMS on the basis that PSA is independent of Ofcom and its finances and other matters are not consolidated into those of Ofcom. The Department expects PSA to follow the standards, rules, guidance and advice in Managing Public Money to the extent that they are relevant and appropriate for PSA. There will always be instances where it is not appropriate for a specific body to follow general guidance. PSA recognises that DCMS, as its sponsor department, has a legitimate interest in understanding which elements of that guidance are not relevant or appropriate for PSA to

follow and, in its judgement as an Independent body, it believes the public interest is best served by taking a different approach. As such PSA agrees to notify DCMS where such instances arise.

The Permanent Secretary is the Accounting Officer for DCMS. PSA will provide such information and assistance as the Permanent Secretary may reasonably require in relation to the financial and management controls that PSA has in place to ensure the proper performance of its duties, appropriate assessment of risk, and the escalation of concerns to the PSA Board as appropriate.

Phone-paid Services Authority's relationship with DCMS is governed by a Framework Agreement. The most recent version, agreed in July 2017, can be found on the website under the publication scheme.

1.6 Board of Directors

The Board is responsible for governance and setting the policies and strategies of PSA. The Board comprises a part-time Chairman (a non-Executive Director), the Chief Executive of Phone-paid Services Authority and up to five part-time members (non-Executive Directors). One member (usually non-industry) is appointed by the Chairman as the Senior Independent Director ('SID'). The Board does not exercise any adjudicatory functions within Phone-paid Services Authority.

Non-industry members form the majority of the Board and are independent of the premium rate industry having no current involvement in the connectivity, provision or promotion of premium rate services; if an involvement in the premium rate industry does arise, such an interest must be declared.

1.7 Independence

Independence as defined in the Code of Practice, Part One, paragraph 1.4

1.4.1 Phone-paid Services Authority operates in an entirely independent manner. All members of the Board are appointed in their individual capacities. Apart from a minority of members who are appointed on the basis of their contemporary industry knowledge, no member of the Board may have any commercial interest in the premium rate sector.

1.4.2 Board members shall not sit on Phone-paid Services Authority Code Adjudication Tribunals (hereafter "Tribunals") that adjudicate on the provisions of the Code pursuant to Part Four and Annex Three of the Code.

Section 2: The Role of the Investigations Oversight Panel (IOP)

Board members do not have adjudicatory responsibilities and are not members of the Code Adjudication Panel. However, they are members of the Investigations Oversight Panel. For further information see section 2.1 below on the role of the IOP.

2.1 The Investigations Oversight Panel

The IOP composition and work are set out within the Supporting Procedures to the 14th Edition of the Code of Practice (paras. 74 -78):

74. The Head of Investigations and Enforcement has primary control over ongoing investigations and enforcement action undertaken by the Executive. The person in this role manages the Investigations Team undertaking the tasks associated with those enforcement activities. The Phone-paid Services Authority Investigation Oversight Panel (IOP) includes members of the Leadership Team and non-executive Phone-paid Services Authority Board members. Given the potential reliance necessary on legal advice during case management, whilst the General Counsel who sits on the Leadership Team will be involved in the IOP, s/he will not take part in considering any investigation in which s/he has been previously involved. Furthermore, the Chairman of Phone-paid Services Authority will focus on leading the organisation and will not be involved in the IOP.

75. The IOP acts as a group providing oversight and quality assurance of investigations in support of the Head of Investigations and Enforcement. At specific stages of any investigation members of the IOP give consideration to the planned enforcement activities undertaken by the Investigations Team and may endorse proposed activities or suggest alternative ones.

76. The key stages of any Track 2 investigation may include:

- Assessment of any required interim measures;
- Assessment of potential breaches and sanctions in draft Warning Notices;
- Assessment of any acceptance of breaches and sanctions by relevant parties, with the possibility of settlement.

77. At each of these stages, the Investigations Team will submit requisite information to designated members of the IOP for consideration[1], for which a meeting may be convened. When an IOP consideration is required, normally three (and no less than two) eligible members will be convened for a meeting either in person or via conference call. This would normally involve:

- up to two members of the Leadership Team; and,

[1] The information required will vary depending on the stage of the investigation. Where not otherwise obvious, the Investigations Team member will also provide a paragraph summarising the nature of the service, and Phone-paid Services Authority's concerns.

- a non-executive Board member[2]. Where there is no Board member sitting at the meeting, a report summarising the outcome will be made to the Board after the meeting.

78. Also attending the meeting of the IOP will be a Secretariat for the panel, the Head of Investigations and Enforcement, and the relevant Investigations Team member working on the case, who will coordinate any actions required based on the recommendations of the IOP. This may involve making further enquiries to gather or test evidence; switching the case from Track 2 procedure to a Track 1 based on a review of evidence gathered; issue a formal notification to a relevant provider in accordance with the Code, such as a Warning Notice; or consider the closure of the case and other regulatory activities. The CAP is not involved at all in these processes but where a matter (i.e. an Interim Warning Notice, Warning Notice or settlement) is placed before CAP members to consider it will normally have been reviewed by the IOP. Para 3.4 below provides further information on the adjudicatory work of the CAP.

Section 3: The Role of the Code Adjudication Panel (CAP)

3.1 The Code Adjudication Panel (CAP)

The CAP advises the Board of Phone-paid Services Authority on its activities and trends but is constituted separately from the Board. It acts as a panel of professionals and experts who undertake adjudicatory activity and decision making in relation to Code enforcement on behalf of Phone-paid Services Authority, and its functions and powers are set out in section 4.7 of the Code and Annex 3 to the Code.

The Code Adjudication Panel (Code of Practice, Annex 3, Paragraph 1):

1.1 Phone-paid Services Authority has established a Code Adjudication Panel ("CAP") consisting of a minimum of 9 and a maximum of 17 members who throughout the entire duration of their membership will not have any commercial interest in the premium rate sector. The CAP will include:
(a) A Chair of the CAP, who is a qualified barrister or solicitor with not less than 15 year's relevant experience;
(b) Up to three but no less than two legally qualified members who are qualified barristers or solicitors with not less than ten years' relevant experience; and
(c) Up to thirteen but no less than six lay members with adjudicatory and relevant marketing, technical, operational, consumer-based or other experience.

[2] The eligible members include industry non-executives on the Board who may bring their expertise to any assessment of enforcement activities, except where any conflict of interest exists.

1.2 The Chair of the CAP is appointed by the Board, and shall advise the Board as required on Tribunal activity, trends and related matters. The legally qualified members and lay members are appointed by the Board in consultation with the Chair of the CAP.

1.3 The Board has delegated to the CAP the function of undertaking adjudications in respect of alleged breaches of the Phone-paid Services Authority Code of Practice currently in force ('the Code') and reviews of determinations made by Phone-paid Services Authority in relation to prior permission, including the imposition of conditions upon which prior permission is granted.

3.2 The CAP Relationship with the Board

The Phone-paid Services Authority Board and Executive provide support and general advice to the CAP to ensure it meets its objectives.

As the Code states (under 3.1, paragraphs 1.1 and 1.3 immediately above) the CAP is the body to which the Board delegates its adjudicatory function. The relationship between the CAP and the Board is characterised by six principles;

1. The CAP is responsible for undertaking all adjudications (paper and oral, and including directions for interim measures), reviews under the Code.
2. The Board is responsible for determining all policy issues.
3. The CAP is accountable to the Board for its performance but not its decisions.
4. The Board and CAP maintain an on-going, two way dialogue on policy issues.
5. The Board may issue guidance to the CAP on general or specific policies/strategies and/or issue Code Guidance to the industry. The CAP will have full regard to the Board's Guidance in its application of the Code and consideration of the facts of the individual cases.
6. In the event of conflict between Guidance and the Code, the CAP will apply the Code.

Under the 14th Code, prior permission requirements for high risk services have been in general transposed into Special Conditions. However, the power to impose prior permission on services has been retained in the 14th edition of the Code. The Board has created a sub Committee called the Risk Assessment Committee (RAC), who have responsibility for approving high risk prior permission applications referred to it by the Executive. However, Board has responsibility for approving the variation of conditions within published prior permissions regimes (where these exist) or which involve other policy issues.

The Board has delegated responsibility for approving all applications for prior permission which involve dis-applying specific Code provisions (para 3.10.4(a) of the Code) to the Executive. However, the Board retains responsibility for approving the permanency of any pilot exemptions made available to individual providers (subject to application) and any generic dis-applications of Code provisions that are proposed by the PSA Executive (para 3.10.5 of the Code).

The Chair of the CAP hears all review applications by providers who are dissatisfied with a decision regarding a prior permission application, whether by the Executive or the RAC (para 3.10.3 of the Code). The terms of reference for the Executive, RAC, Board and CAP with respect to prior permissions can be found under Appendices J, K and L.

3.3 CAP Responsibilities

The CAP consists of members with professional and other relevant skills necessary to assure the quality and timeliness of work at CAP Tribunals. CAP Tribunals will always be chaired by a legally qualified CAP member and its members are drawn from the CAP.

Members of the CAP have the following responsibilities:

1. Attend CAP meetings to review Tribunal and adjudication decisions and to ensure calibration of outcomes.

2. Provide effective feedback and mentoring to members of the Executive on process and other matters relating to the effective operation of the CAP.

3. Provide feedback to the CAP Chair on Tribunal hearings, reviews and adjudications, and to other members to ensure their effective performance and contribution to Tribunal hearings.

4. Read and assimilate Tribunal papers before the hearing commences, including on occasions the study of substantial amounts of complex, and sometimes technical, documentary evidence. For cases involving interim measures this may need to be done at short notice.

5. When sitting on Tribunals, hear adjudications and determine cases by considering facts, and applying the relevant provisions of the Code on the basis of reasoned interpretation.

6. As a CAP Tribunal Chair, to record and give the decision of the Tribunal/adjudication hearing in summary, ensuring that the proceedings at the hearing/adjudication are fully and correctly recorded and that a final judgement with reasons is ready to be delivered to the parties, within a reasonable time.

7. Consider the Code, Interim Warning Notices and/or Warning Notices issued by Phone-paid Services Authority (or settlements reached by both parties) and determine the interim measures to be imposed, or breaches to be upheld and sanctions to be imposed, having regard to the Code and Phone-paid Services Authority's Supporting Procedures as well as Board policy.

There is also an obligation, in conjunction with other members, to ensure that Tribunal hearings/adjudications are conducted properly, fairly and in accordance with good practice and the relevant law. Each case must therefore be dealt with in the most expeditious manner

compatible with the interests of justice and in accordance with the provisions of the Human Rights Act 1998.

Above all, members should take responsibility for maintaining the authority and dignity of the Code, and CAP proceedings. They will help resolve issues of procedure and interpretation of the Code as they arise during hearings.

Members will be expected to undertake appropriate training to keep abreast of developments within the premium rate services field.

Legally qualified members (including the Chair of the CAP) are called upon to chair Tribunals via a listings approach, based upon their relevant expertise and availability and take the lead on the resolution of issues of procedure and Code interpretation during hearings. Additionally, they can be called upon to determine the merits of applications for permission to review an adjudication under the Code, and to determine whether applications to review interim measures are frivolous or vexatious.

The Chair of the CAP (Chair) meets with the Chairman of Phone-paid Services Authority on a regular basis to report on the activities and decisions of the CAP, discuss Tribunal reports, and highlight emerging issues and trends for further policy consideration. The Chair also comments on areas of the Code which might usefully be clarified further in light of decisions and interpretations made by the members when hearing cases.

The Chair of the CAP has the following additional specific responsibilities:

1. Acting as a conduit to the Board on Code compliance matters.

2. Coordinating meetings with all members and relevant members of the Executive to review decisions and ensure calibration of outcomes.

3. Considering oral hearing applications and appointing the Tribunal members and clerk.

4. Discussing Code Guidance with the Executive, and participating in the processes for the development and updating of the Code.

5. Ensuring that members are effectively performance managed and directed to training where it is felt desirable or necessary.

3.4 CAP Tribunals

Code Adjudication Tribunals (CAT) comprise of three CAP members. The Tribunal is always chaired by one of the legally qualified CAP members, who will normally be supported by two lay members. The precise make-up of Tribunals is left flexible so that the most appropriate Tribunal, with the relevant skills set, to dispose of a particular case can be formed with a view to ensuring, as best as possible, a fair and proper determination.

Tribunals (Code of Practice, Annex 3, Paragraph 2.1)

2.1 A Tribunal consists of three members comprising:

(a) The Chair of the CAP or such of the two legally qualified CAP members as he or she shall nominate (who shall sit as Chairman of that Tribunal); and

(b) Two persons drawn from the lay members of the CCP.

The CAT will make determinations in respect of:

- 'interim measures' during investigations using the Track 2 procedure, where the Executive considers such measures may be justified;
- Applications for review of interim measures (where these have been previously imposed);
- Code breaches, assessing the facts and evidence in a case as set out in a Warning Notice issued by the Executive; and,
- Appropriate sanctions in cases where breaches are upheld (sanctions are recommended by Phone-paid Services Authority in a Warning Notice).
- Settlements reached between Phone-paid Services Authority and providers relating to interim measures, breaches and/or sanctions, by way of an interim consent order or adjudication by consent respectively.

Tribunals and adjudications are supported by a clerk to assist with procedures and the consistent application of Phone-paid Services Authority's sanctions policy, and to take a record of the matters discussed and decided at Tribunals and adjudications and assist in drafting full written decisions. The clerk also maintains a databank of key decisions affecting the interpretation of the Code, to ensure consistency between Tribunals.

Save in respect of interim measures, Tribunals are scheduled as far in advance as possible, usually within a two week notice period. The actual number held varies depending on workload, volume and readiness of cases. Tribunals take place in person at Phone-paid Services Authority offices.

In respect of interim measures, Tribunals will usually be scheduled on between 3 and 6 days' notice, depending on the measures applied for and the urgency of the matter. Where a review of interim measures is requested, the Code requires a Tribunal to be scheduled within two working days. CAP members should therefore use best efforts to ensure that they are available at short notice for interim measure cases. Such hearings may take place over the telephone.

In addition, the CAP members are expected to attend up to four Forums per year.

3.5 Oral Hearings

The procedures governing oral hearings are set out in the Code of Practice, Annex 3, paragraph 3.1-3.13.

Oral Hearings (Code of Practice, Annex 3, paragraph 3)

3.1. Any relevant party or Phone-paid Services Authority may, by notice in writing, require that an oral hearing be held:
(a) where the party has received a Warning Notice from Phone-paid Services Authority alleging a breach or breaches of the Code; and/or

(b) where the party wishes to seek a review of a Tribunal decision (except where a review has previously been carried out in respect of the case) pursuant to paragraph 4.10.1 of the Code; and/or

(c) where it is the Tribunal's intention to prohibit a relevant party or associated individual from involvement in or promotion of any or all service types for a defined period, or from contracting with another party (see paragraphs 4.8.3(f), 4.8.3(g), 4.8.3(h) and 4.8.8).

3.2 Oral hearings must be applied for within 10 working days of the date of receipt by the relevant party of a Warning Notice, publication of a Tribunal decision, or notice of the Tribunal's intention under paragraph 3.1(c) above as the case may be, subject to any directions issued by Phone-paid Services Authority altering the period of response, pursuant to paragraph 4.5.4 of the Code.

3.3 Within any written application for an oral hearing, the relevant party must provide details of the allegation or relevant decision and set out clearly the applicant's case in respect of it.

3.4 (a) The relevant party is entitled to appear at the oral hearing in person or to be represented.

(b) Phone-paid Services Authority will attend the oral hearing to present its case and may instruct a representative to act on its behalf.

3.5 The Chair shall give such directions as he or she considers necessary for a fair and speedy hearing

3.6 If the relevant party is neither present nor represented at the hearing, and the Tribunal has no cause to believe there is good reason for the relevant party's absence, the case shall be determined by the Tribunal as it sees fit in the absence of the relevant party.

3.7 In relation to applications made pursuant to paragraph 3.1(c) where a relevant party or associated individual, as the case may be, applies for an oral hearing but the relevant party or associated individual fails, without good cause, to appear (in person or through a representative) at an oral hearing which is properly established, then the oral hearing Tribunal may make such finding as it considers fit.

3.8 The Chair shall generally conduct the pre-hearing process and the hearing itself as set out in Procedures published by Phone-paid Services Authority from time to time. However he or she shall have the power to conduct the pre-hearing process and the hearing as he or she sees fit according to the interests of justice, including deciding to adjourn the hearing.

3.9 On the application of Phone-paid Services Authority, the Chair may require the provision of security by the relevant party for the administrative charges of Phone-paid Services Authority.

3.10 The relevant party shall not be entitled to recover the costs it has incurred during the investigation and adjudication process.

3.11 The Chair shall have the power to strike out a case in the event of serious or persistent failure to comply with case management directions which have been ordered.

3.12 A sound recording shall be made of the oral hearing. Recordings will be made available to Phone-paid Services Authority and the relevant party.

3.13 (a) An oral hearing shall be conducted in private, unless the applicant or Phone-paid Services Authority otherwise requires.

(b) If an oral hearing is in public, either party may request that any part of the hearing be conducted in private and any such application shall itself be heard in private.

3.6 Interim Consent Orders and Adjudication by Consent

Interim Consent Orders and Adjudication by Consent (Code of Practice, Annex 3, Paragraph 4)

4.1 Where:

(a) Phone-paid Services Authority issues an interim Warning Notice under paragraph 4.6.3(a) of the Code and the relevant party has responded to that notice in accordance with paragraph 4.6.3(a); and/or

(b) Phone-paid Services Authority issues a Warning Notice under paragraph 4.5.3 of the Code and the relevant party has responded to that notice in accordance with paragraph 4.5.4 of Code.

At any time thereafter, but before the Tribunal has reached its decision, the parties may reach agreement on the interim measures or breaches to be upheld and sanctions and administrative charges to be imposed by a Tribunal.

4.2

(a) Where such agreement is reached, Phone-paid Services Authority will place the details of the matter and the agreement reached before a Tribunal for approval.

(b) Unless the Tribunal determines that there are exceptional reasons not to do so, the Tribunal must agree to impose the interim measures, or uphold breaches and impose such sanctions, and administrative charges, or otherwise dispose of the matter as may be jointly agreed by Phone-paid Services Authority and the relevant party (respectively an 'interim consent order' or 'adjudication by consent').

3.7 Sanctions

Through its Code, Phone-paid Services Authority has a range of sanctions it may apply against organisations and individuals found to be in breach of the Code. Phone-paid Services Authority operates Track 1 and Track 2 procedures. Track 1 procedures may be used by Phone-paid Services Authority for cases where an apparent breach of the Code has caused little or no consumer harm or offence to the general public. A Track 1 procedure involves the relevant party agreeing to an action plan formulated by Phone-paid Services Authority, and thus do not involve the CAP. The Track 1 procedure is set out at para .4.4 of the Code.

For other matters, prior to submission to the CAP, matters, as set out at paragraphs 4.5.1, 4.5.3, 4.6.1, 4.6.2 and paragraph 4.1 of Annex 3 of the Code shall be subject to oversight by senior members of Phone-paid Services Authority (see point 2 Investigatory Oversight Panel), as shall be determined by reference to the Supporting Procedures.

The Tribunal will make a decision as to whether the Code has been breached on the basis of the evidence presented to it.

The Tribunal can apply a range of sanctions depending upon the seriousness with which it regards the breach(es) upheld and taking into account any factors which it considers relevant. The sanctions available to the Tribunal are set out in the **Code of Practice, Part Four, paragraph 4.8.** Factors to be considered by the Tribunal in assessing the seriousness of Code breaches and arriving at appropriate sanctions (including the extent to which the relevant party followed any relevant Guidance published by Phone-paid Services Authority) are set out in Code 14 Supporting Procedures document which is available on the Phone-paid Services Authority website, its terms of glossary are attached as Appendix G.

The aim of the Tribunal is to apply sanctions in accordance with the principles of good regulation, so as to protect consumers against harm, pre-empt breaches of the Code by industry organisations and prevent the recurrence of future breaches.

Sanctions (extract from Code of Practice, Part 4, 4.8)

4.8 1

(a) Once a Tribunal has determined that the Code has been breached, it will consider any breach history of the relevant party, any previous sanctions imposed, the revenue earned from the service or services and any other relevant information put before it.

(b) This will include, but is not limited to, the extent to which the party in breach has followed any relevant Guidance published by Phone-paid Services Authority and/or the extent to which the party in breach attempted to comply with the Code by any alternative methods.

(c) A Tribunal will generally consider failure to comply with Guidance combined with failure to consider alternative methods to comply with the Code to be a serious aggravating factor.

(d) Following Guidance will be considered a mitigating factor.

4.8.2 The Tribunal can apply a range of sanctions depending upon the seriousness with which it regards the breach(es) upheld. In considering the seriousness of the breaches and determining the sanctions to impose the Tribunal will have regard to Procedures published by Phone-paid Services Authority from time to time.

4.8.3 Having taken all relevant circumstances into account, the Tribunal may impose any of the following sanctions singularly or in any combination in relation to each breach as it deems to be appropriate and proportionate:

(a) require the relevant party to remedy the breach (including requiring it to register in the Phone-paid Services Authority Register if it has not previously done so);

(b) issue a formal reprimand and/or warning as to future conduct;

(c) require the relevant party to submit some or all categories of service and/or promotional material to Phone-paid Services Authority, or a third party, for compliance advice or for prior permission from Phone-paid Services Authority for a defined period. Any compliance advice given by Phone-paid Services Authority must be implemented within a specified period to the satisfaction of Phone-paid Services Authority. Phone-paid Services Authority may require payment of a reasonable administrative charge by a relevant party for compliance advice it provides pursuant to this paragraph. Any compliance advice given by a third party must, to the satisfaction of Phone-paid Services Authority, be (i) sufficient to address the breaches of the Code identified by the Tribunal and (ii) implemented within a period specified by Phone-paid Services Authority. The costs of such advice shall be borne by the relevant party.

(d) impose a fine in respect of all of the upheld breaches of the Code or separate fines in respect of each upheld breach of the Code not exceeding the maximum amount permitted by law (which at the time of publication of this Code is £250,000) on the relevant party to be paid to Phone-paid Services Authority;

(e) require that access is barred to some or all of the relevant party's services or numbers for a defined period, or until compliance advice has been implemented to the satisfaction of Phone-paid Services Authority, and direct any party accordingly;

(f) prohibit a relevant party and/or an associated individual found to have been knowingly involved in a serious breach or a series of breaches of the Code from providing, or having any involvement in, specified types of service or promotion for a defined period;

(g) prohibit a relevant party and/or an associated individual found to have been knowingly involved in a serious breach or series of breaches of the Code from providing, or having any involvement in, any PRS or promotion for a defined period;

(h) prohibit a relevant party from contracting with any specified party registered (or which should be registered) in the Phone-paid Services Authority Register save on specified terms or at all for a defined period;

(i) require that refunds are paid within a specified time period to all or any specified group of consumers who claim a refund, for the full amount spent by them for the relevant service or for a specified lesser amount, save where there is good cause to believe that such claims are not valid, and provide evidence to Phone-paid Services Authority that such refunds have been made;

(j) require in circumstances where there has been a serious breach of the Code and/or serious consumer harm, or unreasonable offence to the general public that refunds for the full amount spent or a specified lesser amount are paid within a specified time period to all or any specified group of consumers who have used the service, regardless of whether they have claimed a refund;

(k) require the relevant party to submit to a compliance audit carried out by a third party approved, and to a standard prescribed, by Phone-paid Services Authority, the costs of such audit to be paid by the relevant party. Such an audit must be completed and the recommendations implemented within a period specified by Phone-paid Services Authority.

4.8.4

(a) Where refunds have been ordered under paragraph 4.8.3(j), they shall be credited directly to the consumer's account with his or her originating communications provider.

(b) Where there is no such originating communications provider account, consumers must be notified of their right to a refund and be given an easy method of obtaining the refund.

(c) Where it is not technically or legally possible to notify consumers of their right to a refund, Phone-paid Services Authority may direct the relevant party to donate an amount of money equivalent to the refunds to an appropriate registered charity selected or approved by Phone-paid Services Authority.

(d) Evidence must be provided to Phone-paid Services Authority that refunds have been made or payment to the selected charity has been made.

4.8.5 All breaches upheld and sanctions imposed against a relevant party under Track 2 will be noted on the Phone-paid Services Authority Register and will be available to public scrutiny.

4.8.6 The failure of any relevant party to comply with any sanction within a reasonable time will result in:

(a) Phone-paid Services Authority issuing a suspension direction to the relevant party until full compliance with the sanction(s) has been achieved. Such suspension would also include any premium rate numbers, short codes or other means of access to services, or other codes allocated during the period of suspension; and/or

(b) A further breach of the Code by the relevant party, which may result in additional sanctions being imposed; and/or

(c) Phone-paid Services Authority taking such other action as it is entitled to do by law.

4.8.7 If a Network operator fails to comply with a sanction issued following the process set out in this Part, Phone-paid Services Authority may (without prejudice to any other action available to it) refer the matter to Ofcom in accordance with Section 120 of the Act for it to take such action as it shall see fit.

4.8.8

(a) If a Tribunal considers that it may wish to make a prohibition under sub-paragraph 4.8.3(f), 4.8.3(g) or 4.8.3(h) in respect of any associated individual, Phone-paid Services Authority shall first make all reasonable attempts to notify the individual concerned and the relevant party in writing.

(b) It shall inform each of them that any of them may request an opportunity to make representations in writing, or in person, to the Tribunal and of the right of any of them (or Phone-paid Services Authority itself) to instead require an oral hearing.

3.8 Liability

Any legal proceedings initiated by a third party are likely to be brought against Phone-paid Services Authority Limited as an incorporated company. In exceptional cases proceedings might be brought against individuals acting for the company, including CAP members. In such cases CAP members will normally be covered by Phone-paid Services Authority's company indemnity. Phone-paid Services Authority will provide an indemnity to every CAP member under the following terms: subject to the discretion of the Board in each case, and in the absence of any finding of misconduct under with paragraph 3.9 below, every CAP member shall be indemnified by Phone-paid Services Authority against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connection with any application in which relief is granted to him/her by the Court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company, and against all costs, charges, losses, expenses or liabilities incurred by him/her in the execution and discharge (or in relation thereof) of his/her duties.

Members are also provided with professional indemnity insurance cover (subject to various exclusions) against claims for negligence and other usual risks. A copy of the policy is available for inspection upon request.

3.9 Standards in Public Life

Members must be committed to the mission of Phone-paid Services Authority and be accountable to its stakeholders, who include funders, the industry, Ofcom and DCMS Members are expected to observe the highest standards of propriety, including impartiality, integrity and objectivity, in relation to the exercise of their office, and to follow the Seven Principles of Public Life set out by the Committee on Standards in Public Life (Appendix H).

In particular, members should comply with this Handbook in all their duties as members, and ensure that they understand their duties, rights and responsibilities, and the functions and role of Phone-paid Services Authority.

When engaging in any political activities, members should exercise proper discretion. They are free to engage in political activities but where they do so they should take all reasonable care that they do not do or say anything that would suggest or imply that Phone-paid Services Authority is anything other than a non-political and independent regulatory body acting under the authority of and in conjunction with Ofcom (in case of doubt, members should seek advice from the Chief Executive or Chairman of the Board).

Members must not misuse information gained in the course of their service to Phone-paid Services Authority for personal gain or for political purpose, nor seek to use the opportunity of public service to promote their private interests or those of connected persons, firms, businesses or other organisations.

Members should not speak on a public platform or in the media and present themselves as a representative of Phone-paid Services Authority, unless and until that has been agreed by the Chairman of the Board.

Section 4: Appointments

4.1 Procedures for Appointment

Member vacancies will usually be advertised or publicly notified. However, the field of potential candidates being considered will not necessarily be limited to those responding to an advertisement. Others may be informed of vacancies by Phone-paid Services Authority on the basis of suggestions by network operators, Board or CAP members or other stakeholders.

Anyone applying who has a current financial or other direct or prospective involvement with the premium rate industry will not be considered for appointment.

The Chair of the Code Adjudication Panel will be appointed by the Board through a Nominations Committee. The Nominations Committee will normally be chaired by the Chairman or Senior Independent Director (SID) of Phone-paid Services Authority and may include, in line with best practice, an independent lay assessor.

The legally qualified and lay members of the Code Adjudication Panel will be appointed by the Board through a Nominations Committee. The Nominations Committee established for this purpose will include the Chair of the CAP.

The Chairman or SID of Phone-paid Services Authority will also determine the renewal of member's fixed term contracts, following recommendations received from the Chair of the CAP. The re-appointment of a CAP Chair will be determined by recommendations made by the CEO and General Counsel of Phone-paid Services Authority to the Chairman or SID of Phone-paid Services Authority. The Chairman or SID of Phone-paid Services Authority will then formally re-appoint the Chair of the CAP.

4.2 Terms of Office

The initial term of office of members and Chair will be one year, which may lead to a further reappointment of the first term of up to three years. A further and final second term of reappointment may then follow of up to two years. Re-appointment for terms is not automatic and will be dependent upon satisfactory performance in office, as well as the needs and continuity requirements of the CAP.

The overall term of office for CAP members will not ordinarily exceed six years.

4.3 Induction and Training

Phone-paid Services Authority is committed to the training and development of its members to enable members to carry out their role efficiently and effectively. Members will be provided with an appropriate training and induction programme which will be tailored to suit individual

needs. This will include familiarisation with the role and work of the Phone-paid Services Authority Board and Executive. All CAP members will receive training on the principles and processes relating to Phone-paid Services Authority adjudicatory work.

Specific training will be provided when required, and identified as a result of a performance review or otherwise and will be assessed and met.

4.4 Performance Reviews and Misconduct

The performance of a new member will normally be reviewed by the CAP Chair by way of a discussion after six months, and annually thereafter. At the discretion of the Chair, performance reviews may take place at any time.

If performance reviews lead the CAP Chair to conclude that a member's performance is unsatisfactory, the member may be asked to resign. If the member is unwilling to do so, his/her continuation in office shall be a matter for the Board (which may be through the Nominations Committee) to decide.

The performance of the CAP Chair will be reviewed by the Chairman (or SID) of the Board after six months, and annually thereafter. If performance reviews lead the Chairman of the Board to conclude that the CAP Chair's performance is unsatisfactory, the CAP Chair may be asked to resign. If the CAP Chair is unwilling to do so, his/her continuation in office shall be a matter for the Board (which may be through the Nominations Committee) to decide.

In the event of gross misconduct on the part of the CAP Chair or any other member, that person's appointment shall cease forthwith upon written notification.

In the event of apparent misconduct by a member (other than the CAP Chair), the CAP Chair shall investigate and determine the matter. If the CAP Chair concludes that it is appropriate that the appointment should terminate but the member is unwilling to resign, then the member's continuation in office shall be a matter for the Phone-paid Services Authority Board to decide.

4.5 Availability

As part of CAP members ongoing responsibility and commitment, members should make themselves available for Tribunal hearings (including interim measures hearings convened at short notice) and notify the Executive as soon as possible of periods of unavailability in advance (e.g. holiday dates) or otherwise as soon as they become known. Tribunals will normally be listed depending on the urgency of the matter and availability of members.

Since the 14th edition of the Code came into force in July 2016, there have been several Tribunals and interim measure applications each month. As a result lay members will be usually required to sit once a month, with legal Chair members usually required to sit twice a month.

Attendance will also be required for discussion and training forums for all CAP members which are usually held up to three times a year.

Section 5: Remuneration and Expenses

5.1 Remuneration

Due to the nature of the CAP, the flexibility required and the need for short notice availability, members will be paid an annual retainer of five days as well as an attendance fee on a basis that is separately notified and which is reviewed annually.

Members will be entitled to payment at the same rate for time spent in training and for attendance at meetings which they are required to attend by reason of their membership of the CAP (as circumscribed in the annual retainer payment). For any additional work undertaken fees paid will be based on half/full day rates.

The process for time recording is as follows:

- Tribunals/CAP Forums/Reviews etc. Fees should be submitted for the time spent on Phone-paid Services Authority business on a 'half day' and/or 'full day' based principle. Time spent will be rounded up or down to either half a day or a full day to fairly record that time. In general Tribunal members will be paid for a full day depending on the length of the Tribunal. Generally reading the papers and preparation for members will be half a day, in addition to the full day for sitting. (For Chair and legal members usually an extra half day will be required to accommodate for post Tribunal decision making.)

- Where there are exceptions to the usual time spent on specific activities, this should be discussed with the members and the Chair directly after the Tribunal has taken place. As appropriate, a note of explanation should be included in the timesheet under exceptional circumstances.

- Each member is responsible for submitting his/her own timesheet and expense form to the Executive.

Claims should be made on the attendance timesheet which is attached as Appendix E to this Handbook. Claims are required to be received by the Executive by the 5th working day of the following month, in order to be processed in that month's payroll on or around the 26th of each month.

Phone-paid Services Authority reserves the right to allow claims to be authorised only by the CAP Chair or the Chairman or SID of the Board.

Members of the CAP are not employees of Phone-paid Services Authority 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.

Members are not eligible to join the Phone-paid Services Authority pension scheme or to receive other benefits or contributions to a personal pension scheme.

5.2 Travel Expenses

Members may reclaim travel expenses and where appropriate subsistence which are incurred wholly and necessarily in the discharge of their duties as office holders.

Standard class tickets will be reimbursed for rail journeys on CAP business. Taxi fares incurred while on CAP 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 under exceptional circumstances.

There is no upper limit laid down by HMRC and members should always ask the Executive for advice when arranging hotel accommodation where required for Phone-paid Services Authority business.

When car travel is necessary, mileage can be claimed at existing HMRC rates. Further information can be obtained at http://www.hmrc.gov.uk/rates/travel.htm.

Claims for expenses should be submitted on a monthly expenses form and supported by full receipts and vouchers. Expense claims are available from the Executive and attached as Appendix F. The exception to this is circumstances where receipts are not available, e.g. London Underground travel using an Oyster card for payment and car mileage.
Phone-paid Services Authority has entered into a Settlement Agreement with HM Revenue & Customs with respect to members travel from home to Phone-paid Services Authority. The effect of this is that Phone-paid Services Authority will pay the tax and NI for affected members on such travel expenses to Phone-paid Services Authority. The dispensation covers business travel and subsistence expenses, provided those expenses are reasonable.

Phone-paid Services Authority, like many organisations has a dispensation relating to other expenses. This means that specified expenses need not appear on form P11D. A copy of the letter of dispensation provided by HMRC is available to all members. Phone-paid Services Authority submits an annual P11D return to the Inland Revenue for each member, stating the amount paid in expenses covering travel from the member's home or office to and from Phone-paid Services Authority. Members may be liable to pay income tax on these amounts.

5.3 Member Remuneration

CAP members' pay policy is proposed by the Resources Committee and agreed by the full Board. The policy is included in the annual budget setting process, which itself includes consultation and approval by Ofcom.

Section 6: Code of Conduct

6.1 Principles

This Code of Conduct handbook sets out the standard of conduct expected of all members in the performance of their duties, 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 be aware of the appropriate action they should take.

Members are expected to commit themselves to the spirit of the handbook as well as to its specific provisions. On appointment, members will be asked to sign an undertaking that they will comply with this handbook (see Appendix A).

6.2 Conflicts of Interest

The overriding duty of a member is to act independently and fairly and in the best interests of Phone-paid Services Authority as a whole, and not pursuant to any other business, group, or personal interest.

A conflict of interest arises where an individual with a responsibility to act as an impartial member of the CAP or a Tribunal may be affected, or may be perceived 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.

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 a 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 a member.

6.3 Standing Declaration of Interest

On appointment each member is required to complete a confidential standing declaration of interest form (Appendix B), listing any material financial interest, including investments, employment, consultancies, directorships or commissions held either personally, as a trustee or as an effective controller of a company (whether or not this is achieved by a majority interest). "Material" means any interest which could reasonably be perceived as sufficient to place a member in the position of having a potential conflict of interest and/or which may have an influence over financial management. Any changes in these interests must also be declared as and when they occur.

This declaration should also cover the interests of the member's close family members[3] in the same way as they cover the interests of the member.

[3] As defined in Appendix C

In doubtful or borderline cases, members should disclose their interest or seek advice from the CAP Chair.

Any 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 CAP Chair and an independent person appointed by the Phone-paid Services Authority Board both specifically resolve to the contrary.

Guidance regarding such declarations is set out in Appendix C.

6.4 Specific Disclosure of Conflict of Interest (Bribery Act 2010)

In addition to a standing declaration of interest, members need to be aware, in discharging Phone-paid Services Authority business, of actual, potential or perceived conflicts that might arise between their private interests and their role responsibilities. This is particularly important given the wide reaching application of the Bribery Act 2010, which is covered in depth in the Phone-paid Services Authority Anti-bribery Policy. The policy is available upon request.

A conflict of interest arises where a member has a private interest that might influence that person's judgement in some way when carrying out their normal day to day duties in their role. Such a conflict may involve a direct or indirect financial and/or non-financial interest, for example a present or past business or personal association or relationship. Members are required to disclose all interests that actually or potentially could be perceived as a conflict with their obligation to act in the best interests of Phone-paid Services Authority.

Actual, potential or perceived conflicts of interest may arise in connection with, for example: personal relationships (which includes close friendships and family relationships); employee relationships; friendships on social media; procurement of services; business meetings; use of Phone-paid Services Authority premises, equipment and materials; external activities and public comment; gifts and hospitality relating to work; use of confidential information; fellowships, trusteeships and/or memberships; indirect support or sponsorships; memberships of clubs, trade bodies; public appointments, financial interests; an expectation of future interest in any of the above. The list is non exhaustive.

In exceptional cases where disclosure of the nature of the potential 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 CAP must be discussed with the CAP Chair.

Where a potential conflict of interest can be anticipated, the member concerned should declare that there is a potential conflict to the Chair of the CAP and should exclude himself or herself from distribution of documents or attendance at any relevant Tribunal hearing or other meeting in respect of the issue/item concerned as well as withdraw from taking part in any decision-making at a Tribunal in which the conflict may become material.

6.5 Confidential Information

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, Phone-paid Services Authority's policy on the use of personal data and confidentiality – copies of which are set out in Appendix M and N respectively.

Members should treat all papers provided to them by Phone-paid Services Authority as confidential and subject to the provisions of the Data Protection Act 1998, unless otherwise advised and unless the documents are known to be in the public domain and/or published on the Phone-paid Services Authority website. Members should not discuss the content of CAP Tribunals with others outside Phone-paid Services Authority. 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 Phone-paid Services Authority's offices or ensure that they are otherwise securely destroyed. Where papers contain sensitive personal data extra caution should be taken to ensure secure destruction.

Members must not speak on a public platform or to the media, nor present themselves as a representative of Phone-paid Services Authority unless and until this has been agreed by the CAP Chair who in turn may refer to 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 Phone-paid Services Authority and/or be perceived to represent a Phone-paid Services Authority view point.

6.6 Insider Dealing

Members must not acquire or dispose of investments if they hold any information relevant to such investments through their involvement with Phone-paid Services Authority if such information is unpublished price-sensitive information.

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:

- any proposed take-over or merger;
- any potential company insolvency;
- unpublished information as to company profits or losses;
- any unannounced decision by a company in relation to dividend payments,
- any unannounced decision by a company about changes to the price levels or structures of its services;
- any unannounced decisions by a company to enter a new market or leave an existing market;
- any relevant Phone-paid Services Authority investigation or impending sanction.

In case of doubt, unpublished and confidential information should be treated as being price-sensitive.

These provisions on confidential information and insider dealing continue to apply without time limit after a member's appointment has finished.

6.7 Gifts and Hospitality

To avoid the possibility that the integrity or objectivity of 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 CAP Chair if its monetary value is greater than £50 (Appendix D).

If a member is aware in advance of the possibility that a gift or hospitality worth more than £50 may be offered by anyone connected with the premium rate services industry, clearance should be obtained from the CAP Chair.

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 Phone-paid Services Authority where it is normal and reasonable in the circumstances.

6.8 Failure to Observe Standards

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 Handbook, or being unfit to perform these duties, will be judged as failing to carry out the duties of their office.

Such failure may result in their removal from office. This will be a decision for the Chairman of the Board, following consultation with the CAP Chair and subsequent consultation with the Board.

Appendix A: Undertaking

To the Chairman of Phone-paid Services Authority

I,.....
As a Member of the Code Adjudication Panel of Phone-paid Services Authority Limited

Confirm that I have read the Code of Conduct Members' Handbook and Undertake to comply with its provisions.

Signed .....

Dated ……

Appendix B: Annual Declaration of Interest Form

All Phone-paid Services Authority Board, Committee and CAP members are required to declare all matters which may represent a conflict of interest or potential conflict of interest and which are, or could become relevant to the work of Phone-paid Services Authority. These are interests that might affect the carrying out of their duties. An interest may be 'direct' (through themselves) or 'indirect' (through a close family member or a nominee). Where members are uncertain as to whether a particular interest should be declared they should seek further guidance from the Executive. In doubtful or borderline cases, members should disclose their interest.

The systems and controls to identify and authorise related party transactions take the form of the recording of annual declarations of interest and requesting members to update their interests, should their circumstances change, within the annual period.

Notes on terminology:

'Industry' means any organisation or individual involved, whether or not for profit, with the connectivity, advertising, promotion or production of content for PRS or whose business activities could be affected by Phone-paid Services Authority's decisions.

'Relevant bodies' means organisations with a specific interest in PRS issues as defined above, such as trade bodies.

'Close family' of an individual are those family members, or members of the same household, who may be expected to influence, or be influenced by, that person in their dealings with the reporting entity. Typically, this will include: the individual's domestic partner and children, children of the individual's domestic partner and dependents of the individual or the individual's domestic partner.

'Investment(s)' does not include indirect shareholdings through OEICS and/or Unit Trusts or similar collective funding arrangements such as a self-invested personal pension (SIPP) where the investor has no influence over the financial management of the shares.

"Material" means any interest which could reasonably be perceived as sufficient to place a member in the position of having a potential conflict of interest and/or which may have an influence over financial management.

Notes on Related Parties:

Broadly, a related party of Phone-paid Services Authority or Director of Phone-paid Services Authority is a person or organisation which either directly or indirectly controls, has joint control of, or significantly influences Phone-paid Services Authority or vice versa. Therefore, related parties include/exclude the following:

Included	Excluded
Shareholders (as a guide; with more than 20% of the voting rights) Directors Other key management Close family of the above (see definition under notes and requirement to name members) Other business interests of the above Retirement benefit schemes (If in a group) Parent company, together with directors and 20%+ shareholders Fellow subsidiary companies Joint ventures and associates	Providers of finance in the course of their business (e.g. banks) Utility companies Government departments Customers, suppliers, franchisers, distributors or general agents with whom the entity transacts a significant volume of business Trade unions

Name of member:

Material Financial Interests
Any investment, financial or other beneficial interest in industry or other interest in companies and/or the communications sector held by you or a close family member, whose core business activities could be affected by Phone-paid Services Authority's decisions. This also includes shareholders, as a guide; ***with more than 20% of the voting rights****.*
Employment, Consultancies, Directorship or Commissions
Any directorship, key management, partnership, consultancy, contract, employment, position in or work for, commissioned or fee paid work which attracts regular or occasional payment whether in cash or in kind or from which any other benefit is derived which you or a close family member have in industry, a relevant body or the communication sectors, and any non-remunerated positions which may fall within Phone-paid Services Authority or any other PRS related sphere.
Membership of Clubs, Trade & Public Bodies And Other Organisations
Any membership, role or affiliation to clubs or organisations with a current or potential interest or involvement in the PRS sector held by you or a close family member whether acting as office holder or trustee for pressure groups, trade unions, voluntary or not-for-profit organisations which have a campaigning and/or fundraising interest in issues around PRS policy. This also includes any joint ventures and associates related parties.

Indirect Support
Any payment or other form of financial or material support or sponsorship that you receive from any organisation that falls within Phone-paid Services Authority or any other PRS related sphere and benefits an organisation in which you or a close family member has an interest (for example a grant or sponsorship of an academic post).
Trusteeships
Any investment or involvement in the PRS sector in industry held by a charity for which you or a close family member is a trustee.
Any Relevant Retirement Benefit Schemes
Any retirement benefit schemes for you or a close family member with a current or potential interest or involvement in the PRS sector which might influence your judgement, deliberation, action as a member of Phone-paid Services Authority or might be perceived by a reasonable member of the public as doing so.
Any Other Details of Relevant Interests/Conflicts Not Covered Above, Including Significant Interests of A Close Family Member
For example: interests that might influence your judgement, deliberation, action as a member of Phone-paid Services Authority or might be perceived by a reasonable member of the public as doing so.

Names and Dates Of Birth Of Close Family Members; Partner, Spouse, Dependants

DECLARATION	
Name:	
Body:	
Signed:	
Dated:	

Appendix C: Standing Declarations of Interest Guidance

New members should send a declaration of interest to the Executive within a month of appointment. Where appropriate, a nil return should be lodged. Members are under an obligation to notify any changes to their standing declaration of interest. All the procedures in this guidance will apply to notifications of changes.

This Appendix provides guidance on kinds of interests that should be declared and include, but are not limited to, interests from which Members derive a direct benefit or in which they are personally involved, and rewards or payments which benefit an organisation for which the member is responsible, by which the member is employed, or from which he or she benefits financially, but which is not received personally by the member.

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) or whose business activities could be affected by Phone-paid Services Authority's decisions. 'Relevant bodies' means 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 guidance, 'close family member' of an individual are those family members, or members of the same household, who may be expected to influence, or be influenced by, that person in their dealings with the reporting entity. Typically, this will include: the individual's domestic partner and children, children of the individual's domestic partner and dependants of the individual or the individual's domestic partner.

Categories of interests include but are not necessarily limited to:

- **Consultancies and/or direct employment:**

  Any consultancy, other employment, partnership, directorship or position in or work for an industry body or other relevant bodies which attracts regular or occasional payments in cash, recognition in any other form, or from which any other benefit is derived.

- **Fee-paid Work:**

  Any commissioned work for a PRS related industry or other relevant body for which the member or close family member is paid in cash or kind.

- **Shareholdings:**

  Any shareholding or other beneficial interest in any PRS industry with more than 20% of the voting rights. This does not include indirect shareholdings through OEICS and/or unit trusts or similar collective funding arrangements such as a self- invested personal pension where the member has no influence on financial management of the shares.

- **Clubs and other organisations:**

  Any membership, role or affiliation to clubs or organisations such as a trade body with a current or potential interest or involvement in the PRS sector held by the member or a close family member whether acting as office holder or trustee for pressure groups, trade unions, voluntary or not-for-profit organisations which have a campaigning and/or fundraising interest in issues around PRS policy. This also includes any joint ventures and associated parties.

- **Support by industry or other relevant bodies:**

  Any payment, other form of financial or material support or sponsorship which falls within Phone-paid Services Authority or any PRS related sphere and benefits an organisation in which the member or a close family member has an interest, for example, a grant or sponsorship of a post or programme, or payment for research or advice.

- **Trusteeships:**

  Any investment or involvement in the PRS sector in industry held by a charity of which a member or close family member is a trustee.

Appendix D: Gifts and Hospitality

In accordance with paragraph 4.7 of the Code of Conduct Handbook, CAP members are required to complete this form where they accept a gift or hospitality where the value is deemed to exceed £50.

To the Chairman of the Phone-paid Services Authority

I,……., a CAP Member of Phone-paid Services Authority Limited, 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 £50:

……

……

from the following member of the premium rate industry or organisation with an interest in premium rate services:

Name:……

Company:……

Date of receipt of gift or hospitality……

Signed

……

Date ……

Appendix E: Members' Attendance Sheet

Member's Name:

Member's Signature (if hardcopy):

Period of Claim:

Date	*Description*	*Time to be paid rounded up or down to the nearest ½ day or full day*
	Total	

Where there are exceptions to the standard times for an activity, this should be discussed with the chair of the tribunal after the tribunal and a note included above (where appropriate).

The completed sheet should then be given or sent to the executive for processing.

Please note that failure to follow the above process may result in a delay in payment.

Appendix F: Members' 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*
	TOTAL						

Appendix G: The Supporting Procedures Glossary of Terms (Extract taken from the Supporting Procedures Document)

The supporting procedures document aims to be a comprehensive set of supporting procedures to the Phone-paid Services Authority Code of Practice (the Code) ('Supporting Procedures') and applies equally to all parties in the PRS value-chain. Phone-paid Services Authority has established the procedures set out in this document pursuant to paragraph 4.1.4 of the Code. The purpose is to provide both transparency and clarity around the informal investigation process designed to achieve swift remedial actions, and more formal investigative procedures used by Phone-paid Services Authority in enforcing the Code.

2. The Supporting Procedures are not a substitute for the Code (the provisions of which override those in this document in the event of conflict). The Supporting Procedures also seeks to clearly set out all the details of the adjudications process, including that used by the Code Adjudication Tribunal (CAT) to determine fair and reasonable sanctions, as well as the rights of a provider (including Network operators) should it find it is the subject of a Phone-paid Services Authority investigation and/or sanction. It is essential that our processes are not only effective and capable of producing a proportionate, consistent and reasonable outcome, but that they can be clearly understood by industry.
3. The Supporting Procedures may be used by all stakeholders, including consumers, but will be particularly useful to Network operators, Level 1 providers and Level 2 providers. These are collectively defined as PRS providers in the Code. The Supporting Procedures seek to clarify our expectations as to the responsibilities of the relevant PRS providers when Phone-paid Services Authority investigates. The Supporting Procedures may be updated from time to time and published accordingly.
4. To assist all readers we provide a glossary of terms below. These consider the various people and roles involved in the investigations process, the stages of the investigation and adjudication, and the key documents used for enforcement activities.

Glossary terms	*Explanation*
Phone-paid Services Authority	Defined at paragraph 5.3.26 of the Code and within the explanation at paragraph 1.1 of the Code: 'Phone-paid Services Authority' means the employees of Phone-paid Services Authority and/or members of the Board save where the context otherwise requires. It is an enforcement authority with responsibility for enforcing the Code, which regulates the use of premium rate services (PRS).
Executive	Phone-paid Services Authority's functioning executive body. This generally excludes the non-executive members of the Board of Directors. However, the Investigations

	Oversight Panel (IOP) generally includes both senior executive and non-executive members, and as such is included within the term "Executive".
Investigations Team	Part of the Executive that holds expertise in evidence gathering, handling and analysis. The Investigations Team is tasked with case management and day-to-day enforcement activities under the Code.
Investigation Oversight Panel (IOP)	An internal panel composed of senior executives and non-executive Board members that will consider matters of case management and quality control during the progress of the Investigation Oversight Panel (IOP) investigations. Its role is explained at Section 8 of the Supporting Procedures.
Allocation Team	This usually comprises the Head of Investigations and Enforcement, Head of Contact Management, an in-house lawyer and a Policy team representative. The group considers information held in relation to any complaint, monitoring work or based on engagement with relevant parties at the 'enquiry stage' of the process. The group will then follow the 'allocation' process (see below) triggering an investigation where necessary.
Phone-paid Services Authority Board	The Board of Directors of Phone-paid Services Authority Limited – a not-for-profit organisation limited by guarantee. The Board govern the strategy, policy setting and operations of Phone-paid Services Authority. Board members do not take part in any adjudicatory activity or decision-making in relation to Code enforcement. Non-executive Board members sit on the Investigations Oversight Panel (IOP) as required.
Code Adjudication Panel (CAP)	A panel of experts who undertake adjudicatory activity and decision making in relation to Code enforcement on behalf of

	Phone-paid Services Authority. The Code Adjudication Panel (CAP) is constituted separately from the Phone-paid Services Authority Board, and its functions are governed by section 4.7 of the Code and Annex 3 to the Code.
Code Adjudication Tribunal (CAT)	Tribunals are constituted of three members of the Code Adjudication Panel (CAP). Details of the process followed in advance of, and during, Tribunals are set out in Sections 11-13 of the Supporting Procedures.
Enquiry stage	The enquiry stage is undertaken by the Executive when it first becomes aware (either through receipt of complaints or monitoring) of potential issues with a PRS. This involves the gathering of information to assist with the Executive's initial decision making, including allocation decision.
Derogation process	Where PRS providers are based in non-UK EU or EEA countries, there may be legal steps to be taken prior to allocation. Details of this derogation process are provided at Section 3 of the Supporting Procedures.
Allocation	The process by which all cases are allocated to either Track 1 or Track 2. The allocation process reviews information gathered during the enquiry stage and considers whether any investigation is required or whether enforcement action is unjustified at that time. Details of this process are set out at Section 7 of the Supporting Procedures.
Track 1 procedure	An investigation of potential breaches of the Code, which may be resolved between Phone-paid Services Authority and the relevant PRS provider via an agreed Action Plan. The Track 1 procedure does not require an adjudication by the CAT. The procedure is set out in the Code at section 4.4, and further details are set out in Section 7 of the Supporting Procedures.

Track 2 procedure	An investigation into potential breaches of the Code, which may require more extensive efforts to gather information and evidence relating to the potential breaches of the Code. This formal process is set out in the Code at section 4.5, and explained in greater depth across Sections 7-14 of the Supporting Procedures.
Interim measures	Suspensory or withhold directions which may be issued to parties in the PRS value chain prior to a final adjudication on breaches of the Code by CAT. The withholding of revenues from the Level 2 provider ensures financial security during the investigatory process; and urgent suspension of services enables the prevention of further consumer harm pending the completion of the investigation. Details of these interim measures and how they are invoked are set out in the Code at section 4.6, and in Section 9 of the Supporting Procedures.
Withhold directions	Directions issued to either a Network operator or Level 1 provider to prevent out-payments of PRS revenues being shared with providers lower in the value chain pending payment of any sums due following sanctions being imposed by the CAT. Details of the process associated with these directions are set out in Section 9 of the Supporting Procedures.
Suspensions	Directions issued to parties in the value chain to suspend a PRS. Suspensions may be imposed on services where there is evidence of a serious breach of the Code and the need to suspend is urgent, pending completion of the investigation. Details of the process associated with these directions are set out in Section 9 of the Supporting Procedures.
Review of interim measures	A review undertaken by a CAT of the decision to impose interim measures. Details of this process are found in Section 9 of the

	Supporting Procedures.
4.2.1 Direction	A direction made under paragraph 4.2.1 of the Code to require a party to supply specified information or documents to the Executive. Failure to comply with such a direction may be a breach of the Code. Information gathered as a result of 4.2.1 Directions may form part of the evidence relied upon by the Executive when preparing an Action Plan or issuing a Warning Notice.
Action plan	Action plans are established as part of the Track 1 procedure to address and remedy breaches of the Code. They can be proposed by either the PRS provider or Phone-paid Services Authority, but must be agreed by both parties.
Interim Warning Notice	Correspondence which notifies a party that Phone-paid Services Authority intends to impose interim measures, and invites the recipient to respond urgently with any representations. The Interim Warning Notice will contain appropriate information based on the stage of the investigation and the nature of the interim measure proposed. If the case progresses a full Warning Notice will be prepared in the usual way later in the investigation.
Warning Notice	A formal submission produced by the Executive and sent to a relevant PRS provider, outlining a description of the service and potential breaches identified, providing supporting evidence, and providing a recommendation of sanctions. It will also set out instructions to the PRS provider relating to how it can respond to the Warning Notice. Details of this key stage in the investigation can be found in Section 10 of the Supporting Procedures.
Tribunal bundle	The bundle of documents prepared for the use of the CAT and the parties after a Warning

	Notice or Interim Warning Notice is issued. The bundle includes all the relevant documentation, including any response from the relevant PRS provider.

Appendix H: The Seven Principles of Public Life

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interests.

Leadership

Holders of public office should promote and support these principles by leadership and example.

The Government endorses these Seven Principles of Public Life in "Spending Public Money: Governance and Audit Issues", Cm3179, March 1996

Appendix I: Risk Assessment Committee (RAC)

Terms of Reference

Context

Under the 14th Edition of the Phone-paid Services Authority Code of Practice (Code 14) prior permission requirements for high risk services have been in general transposed into Special Conditions. However, the power to impose prior permission on services has been retained in the 14th edition of the Code of Practice and as such the Risk Assessment Committee (RAC) may not be engaged on prior permission matters often.

Where there is a prior permission regime in place the Board delegates to a sub Committee of the Board RAC all prior permission applications referred by the Executive where the applicant has a relevant and recent breach history. The RAC has the power to impose a range of additional conditions to provide further consumer protections where deemed necessary. Where an assessment of such applications gives rise to consideration of broader policy, the RAC may refer such policy issues to the Board.

All applications for permission in respect of categories of service requiring prior permission by virtue of paragraph 3.10.1 of the 14th Code, will be considered and approved by the RAC where:

- A provider(s) has a current and relevant breach history which was considered to be significant or higher as held on the Registration Scheme[4];
- Named individuals/organisations are seeking prior permission after their prohibition and/or bar has being lifted (N.B. this excludes bars which were relating to non-payment of fines);
- The provider(s) has/have had a relevant prior permission certificate revoked;
- A trial period that has been imposed has expired.

Membership

The RAC shall consist of:

- 3 persons drawn from the Phone-paid Services Authority Board who are not industry Board members.

Quorum

[4] All breaches upheld against a provider that are assessed as 'serious' and 'very serious' will be held on the Registration Scheme for 3 years and for 5 years respectively. Relevance of breach history to the prior permission being sought will be determined by the Executive.

At least two members of the RAC shall consider and reach a decision on each case referred to it by the Executive.

Duties

The principal duties of the RAC in relation to the prior permission regime are as follows:

1. To consider and approve or reject applications referred to the RAC from the Executive where a provider(s) has a current and relevant breach history which was considered to be significant or higher.

2. To apply additional conditions within its remit where applicable.

3. To refer matters of policy arising to the Board.

4. To grant, where appropriate, the power for the Executive to approve other higher risk applications within the parameters agreed by the RAC.

5. To evaluate its work and performance on a frequency agreed by the RAC.

Reporting

All activity of the RAC will be reported to the Board as part of the regular management accounts summary report paper. Any referrals by the RAC of policy to the Board will form separate policy papers for consideration.

Frequency of meetings

The RAC Committee shall meet as required on an ad hoc basis where the Executive believes an application has a recent and relevant risk profile and therefore falls within the mandate of the RAC. The members of the RAC and the Executive will agree a meeting time and forum which may be either face to face, by conference call or by email.

Powers of the RAC

The RAC may require the following in respect of providers considered to have a relevant and recent risk profile when considering applications for prior permission:

- the provider to seek and implement compliance advice on some or all promotional material associated with the service before the service(s) can operate;
- the Executive to undertake monitoring of services at defined time frames, for an agreed period, to ensure they are operating compliantly;
- that monitoring takes place, monthly, bi-monthly or quarterly;
- permission to be granted subject to an agreed trial period after which the service to be reviewed again by the RAC or the Executive (if designated);
- any additional information to be required to be reviewed on a regular basis by either the Executive or the RAC, including, but not limited to:
    - complaint information;

    - average spend per consumer;
    - evidence of repeat use;
- application of additional general conditions that are service specific, currently fall within the requirements of the Code and do not require a change in policy.

Appendix J: Executive Terms of Reference (with respect to prior permission)

Key Duties:

Where there is a prior permission regime in place the principal duties of the Executive are as follows:

- To implement the agreed processes and procedures (within KPI and service levels) as delegated by the Board to approve prior permission applications;
- To prepare and refer applications and reports to the RAC or Board where they are beyond the Executive's approval mandate;
- Undertake the necessary administrative work to deliver the RAC and Board's decision (i.e. issue appropriate certificates);
- To recommend to the Board any future review of changes to the prior permissions regime, including adding new service types to the regime, revising conditions applicable to service categories within the regime and potentially removing an existing service category from the regime and replacing with Guidance where appropriate.

Appendix K: Board Terms of Reference (with respect to prior permission)

Key Duties:

The principal duties of the Phone-paid Services Authority Board in relation to the prior permission regime are as follows:

- To set the policy framework which underpins the prior permission regime.
- To ensure the Board's policy positions are properly reflected in any prior permission regime.
- To review and agree the Executive's recommendations on which industry parties are required to apply for prior permission.
- To set the criteria under which the Executive has delegated powers to approve prior permission applications.
- To set the criteria under which the Risk Assessment Committee has delegated powers to approve prior permission applications.
- To consider dis-applications or policy considerations referred to the Board by the Executive.
- To consider policy considerations referred to the Board by the RAC.
- To approve any future review of changes to the prior permissions regime, including adding new service types to the regime, revising conditions applicable to service categories within the regime, and potentially removing an existing service category from the regime and replacing with Guidance where appropriate.
- To regularly review the operation of the prior permissions regime to ensure it is within the policy framework agreed by the Board and meeting the agreed KPIs.

Appendix L: Code Adjudication Panel Terms of Reference (with respect to prior permission)

Key Duties:

- The Chair of the Code Adjudication Panel is to consider any requests for review by parties who are not satisfied with any aspect of the determination made by the Executive, RAC or Phone-paid Services Authority Board and where deemed appropriate confirm, or vary or reverse the original decision by the Executive, RAC or Phone-paid Services Authority Board;
- CAP members are to adjudicate on cases brought by the Executive raising breaches under paragraph 3.10.6 of the 14th Code (breach of prior permission conditions) for which a convened Tribunal may impose a range of sanctions.

Appendix M: Personal Data and Confidential Information Policy

Why a Policy?

Phone-paid Services Authority needs to protect itself and others against the accidental or unauthorised misuse or disclosure of information relating to or acquired during its regulatory and corporate activities, for the following reasons:

1. To prevent confidential information of all types and personal and sensitive data, generated or acquired by it, from falling into the wrong hands and being misused.
2. Unauthorised use of such information could cause financial or reputational loss to itself or others; or could cause loss, harm or anxiety to those whose personal data it stores.
3. Unauthorised use of such information may also prejudice Phone-paid Services Authority's regulatory functions, and its ability to encourage service and information providers to answer fully and candidly any complaints by consumers as the qualities of their services.

To whom does the policy apply?

Employees, Board and CAP Members of Phone-paid Services Authority are bound by this Policy.

All suppliers of services to Phone-paid Services Authority are bound by terms and conditions that are consistent with this policy, as are contract counterparties who enter into non-disclosure agreements with Phone-paid Services Authority.

What is our policy relating to personal data?

We will treat personal data as confidential, and will:

- ensure that it is collected, processed and stored fairly and lawfully;
- protect the rights of data subjects relating to the use of such data;
- ensure that data is kept safe and free from unauthorised access;
- provide appropriate training to data gatherers and processors;
- not collect *sensitive* personal data without the express consent of the person to whom it relates.

'Personal data' is any data (i.e. information that is processed, recorded & stored) which identifies directly/indirectly living individual, or expresses an opinion about the individual and affects that person's personal/family/business/ professional privacy.

'Sensitive personal data' means personal data consisting of information relating to a person's racial/ethnic origin; political/religious beliefs; TU membership; physical or mental health or condition; sexual life; criminal convictions.

What is our policy relating to confidential information?

In relation to confidential information, we will:

- respect the commercial confidence of information supplied to Phone-paid Services Authority;
- keep confidential information free from unauthorised access, and ensure that it is appropriately handled, used and disposed of;
- put in place restrictions on accessing documents other than through office computers;
- monitor the electronic transfer of documents from our offices;
- refer for prosecution any unauthorised use of confidential information that is illegal (e.g. insider dealing; fraud);
- ensure *highly sensitive* information is handled only by trained persons with a need to use it, and is protected by passwords and strict access rights.

We define confidential information to include the following, but this is not an exhaustive list:

> *'financial information; business plans; marketing plans; market-sensitive information; trade secrets, technical information and know-how; personal and personal contact or financial data; software source and object code; recordings of private telephone conversations; supplier and other commercial contracts;*
>
> *in relation to Phone-paid Services Authority, confidential information also includes its unpublished strategies, board papers, policy documents, data generated during investigations, complaints received, and applications for permission.'*

We similarly define 'highly sensitive information' to include:

> *'credit card numbers; bank account numbers; passwords and logins; personal health information; market-sensitive information; information which, if put in the public domain by Phone-paid Services Authority, would or might undermine trust in it, damage its reputation, or result in any adverse liability attaching to it.'*

When can data be shared?

Data held by Phone-paid Services Authority will be shared with data subjects on request, and with the consent of the data subject, to organisations seeking a reference on the subject. Data is shared with suppliers of Phone-paid Services Authority who need to process such data to fulfil their obligations to Phone-paid Services Authority and who confirm they will comply with the statutory Data Protection Principles.

Phone-paid Services Authority will treat as a serious disciplinary offence any unauthorised access by its employees to, or disclosure of, personal or sensitive personal data, the loss of which would invade the privacy of a data subject, otherwise than in accordance with this policy.

When can confidential information be disclosed?

Confidential information can be disclosed to third parties when it is already lawfully in the public domain or has become lawfully available from a third party free from any confidentiality restriction.

Confidential information may also be disclosed in response to a request from a regulator or other lawful authority, or shared with law enforcement agencies for the purposes of investigating fraud or other criminal offences.

Breaches of confidentiality will be treated as a disciplinary matter. Confidential information received as part of an investigation that is exploited for insider dealing of publicly quoted companies is an offence under the Criminal Justice Act 1993 s52.

Freedom of Information (FOI)

Phone-paid Services Authority is not currently subject to FOI legislation but, in accordance with good practice for public bodies, has issued a publication statement on its website detailing the information and documents that are freely available to the public.

Appendix N: EU General Data Protection Regulation (effective May 2018)

Regulation (EU) 2016/679 (the 'General Data Protection Regulation' or 'GDPR') was adopted by the European Parliament and Council on 27 April 2016, replacing Directive 95/46/EC (the objectives of which had been left to Members States to implement and transpose into national law). Its aim was to strengthen citizen's fundamental rights in the digital age and facilitate business by simplifying rules and enhancing consistency for companies in the Digital Single Market. It aimed to remove the current fragmentation and costly administrative burdens applied in different Member states and thereby achieve significant savings for businesses of around €2.3 billion a year[5].

Whilst the GDPR is now in force it will actually take effect on 25th May 2018 to allow Member States to put implementing measures in place. The Regulation is directly effective meaning that, unless specifically provided for, Member States are not required to transpose its provisions into national law as they automatically and directly apply to each Member State. In Terms of Brexit, the UK Government has confirmed that it will adopt the GDPR notwithstanding the UK's decision to leave the EU.

As the UK 'supervisory authority' for the purposes of the GDPR the ICO has published various information and guidance for Data Controllers and Processors to assist with preparation for and compliance with the GDPR[6].

What has changed from previous rules?

Data Controllers and processors

1. The Data Protection principles (as reflected in the UK's Data Protection Act 1998) are largely preserved. These currently are that personal data is:
    - used fairly and lawfully
    - used for limited, specifically stated purposes
    - used in a way that is adequate, relevant and not excessive
    - accurate
    - kept for no longer than is absolutely necessary
    - handled according to people's data protection rights
    - kept safe and secure
    - not transferred outside the European Economic Area without adequate protection

The GDPR principles

The principles have been made more precise and strict in the GDPR. Personal data must be:

- used lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency')[7];

[5] http://ec.europa.eu/justice/data-protection/reform/index_en.htm
[6] https://ico.org.uk/for-organisations/data-protection-reform/overview-of-the-gdpr/

- collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; ('purpose limitation');
- adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');
- accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate are erased or rectified without delay ('accuracy');
- kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; ('storage limitation')

2. A new principle of **accountability** has been introduced. This is that data controllers must be able to demonstrate compliance with the above principles.
3. A new requirement for data protection by design and default, e.g. data minimisation. Implementation of appropriate technical and organisational measures, e.g. *pseudonymisation*[8] designed to implement principles.
4. A new requirement for certain organisations to designate Data Protection Officers (DPOs) responsible for compliance (this is mandatory for public authorities).
5. A requirement to carry out privacy impact assessments (PIA) prior to high risk processing.
6. Data processors now have direct obligations and are liable for sanctions and legal action.
7. Enhanced sanctions – fines: supervisory authorities can now impose fines for some infringements of up to the **higher of 4% of annual worldwide turnover and EUR20 million** (e.g. breach of requirements relating to international transfers or the basic principles for processing, such as conditions for consent). Other stated breaches can attract a fine of up to the **higher of 2% of annual worldwide turnover and EUR10m**.
8. Requirement for more detailed fair processing notices.
9. Breaches now to be notified to the supervisory authority without undue delay and within 72 hours unless breach unlikely to result in risk to rights and freedoms of data subject.

Individuals

1. The GDPR provides individuals with strengthened rights:
   - To have specific information about processing of his/her personal data (including automated decisions and profiling).
   - Right to rectification of inaccurate data.
   - Right to be forgotten (erasure of data where, e.g. consent withdrawn, unlawful processing has taken place, or no other ground) and obligation for relevant third parties to be informed of request for erasure.

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[7] Consent as a lawful basis for processing has been tightened up in the GDPR, including ensuring the ease of withdrawal.

[8] Pseudonymisation is a new concept where processing is done in a way that the data can no longer be attributed to a data subject without additional information (that identifies a person) which is kept separately and under technical and organisational security measures. Pseudonymised data is still personal data but is encouraged to help ensure that GDPR security obligations and privacy by design are satisfied. This should not be confused with anonymous data (information that does not relate to an identifiable person or has in whole been rendered anonymous such that a person is not identifiable), which sits outside the GDPR.

- Restriction of processing in certain circumstances
- Right to object to processing of data in certain circumstances
- Right to data portability (receipt of data in a structured and commonly used format so that it can be easily transferred to another data controller).
- To receive requested information within a month (although extension possible up to 2 further months where necessary).

2. Breach notification to data subjects where breach likely to result in high risk to rights and freedoms of data subject.
3. Individuals now have a right to an effective legal remedy either against the supervisory authority (where compliant not handled or not kept informed) or against a controller or processor (where an individual's rights are considered infringed) and a right to compensation for damage suffered as a result of an infringement of the Regulations.
4. Right to complain to own supervisory authority re cross-border processing matters. The GDPR requires establishment of a lead authority where a controller is based that can either deal with issue or let it be handled by the supervisory authority that received the complaint.

Data Protection Officer

Public authorities are required to designate a DPO. DPOs have specific tasks under the GDPR, which are to:

- Inform and advise controllers and their employees of their obligations under the GDPR;
- Monitor compliance with the Regulation, other Union or MS DP provisions and DP policies of the controller; assign DP related responsibilities, raise DP awareness and carry out staff training and audits;
- Advise on data protection impact assessments and monitor performance;
- Cooperate with the supervisory authority;
- Act as the contact point for the supervisory authority on processing issues and carry out consultations with the supervisory authority where required.

The GDPR requires that the DPO has expert DP knowledge and ability to perform the tasks, operates independently in the performance of his/her tasks and prohibits penalisation or dismissal for such performance. The DPO is required to report to the highest management level of the controller. The DPO must be supported by the controller in the performance of the tasks and provided with necessary resources. The DPO can also have other tasks and duties.

The PSA DPO reports to the Audit, Risk and Corporate Governance Committee for data protection compliance matters and to the General Counsel for other legal duties and support.

PSA will carry out any Privacy Impact Assessments advised by the DPO.

PSA and external support

Both the DPO and the Executive will have access to Fieldfisher (PSA's external lawyers) where required for specialist or further legal support.