

**THE TAKEOVER PANEL**  
**HEARINGS COMMITTEE**  
**RULES OF PROCEDURE**

**RECITALS**

- (1) The Panel on Takeovers and Mergers (the “Panel”) has established the Hearings Committee.
- (2) The Hearings Committee comprises the Chairman of the Panel, the Deputy Chairmen of the Panel, up to eight other members appointed by the Panel and the individuals appointed by the bodies listed in Section 4(a)(iv) of the Introduction to the Code. One designated alternate may act as a member of the Hearings Committee in a relevant member’s place when he or she is unavailable. The Chairman and Deputy Chairmen of the Panel will not have alternates.
- (3) The Hearings Committee reviews rulings of the Executive, hears disciplinary proceedings instituted by the Executive when the Executive considers that there has been a breach of the Code and may also be convened for hearings in certain other circumstances. The principal function of the Hearings Committee is to hear and determine such matters.
- (5) The names of the members, and designated alternates of the members, of the Hearings Committee and the contact details for the Hearings Committee are available on the Panel’s website ([www.thetakeoverpanel.org.uk](http://www.thetakeoverpanel.org.uk)).
- (6) These Rules of Procedure set out the procedures and practices by which hearings are to be conducted.

**1. CONVENING THE HEARINGS COMMITTEE**

- 1.1 The Hearings Committee may be convened in the following circumstances:
  - (i) if a party to a takeover or any other person affected by a ruling of the Executive and with a sufficient interest in the matter, wishes to contest a ruling of the Executive, that party or person is entitled to request that the Hearings Committee be convened in order to review the matter. The Executive and the Hearings Committee must be notified of the request as soon as possible and, in any event: (a) within such reasonable time as has been stipulated by the Executive; or (b) in the absence of such stipulation, within such time period as is reasonable in all the circumstances of the case, which period shall not be longer than one month from the event giving rise to the request for review, unless such period has been extended by the Executive;
  - (ii) the Executive may refer a matter for review by the Hearings Committee without itself giving a ruling where it considers that there is a particularly unusual, important or difficult point at issue;

- (iii) the Executive may institute disciplinary proceedings before the Hearings Committee when it considers that there has been a breach of the Code or of a ruling of the Executive or the Panel; or
- (iv) in other circumstances where the Executive or the Hearings Committee considers it appropriate to do so.

1.2 Where the Chairman is available, he shall act as chairman of the hearing. Where the Chairman is unavailable, one of the Deputy Chairmen shall act as chairman of the hearing. Where none of the Chairman or the Deputy Chairmen are available, the Chairman (or, failing that, the other members of the Hearings Committee) shall appoint one of the members who is available to act as chairman of the hearing.

1.3 The chairman of a hearing may, on behalf of the Hearings Committee, deal with:

- (a) applications for procedural directions; and
- (b) frivolous or vexatious requests that the Hearings Committee be convened,

without convening the Hearings Committee. In such cases, the chairman of the hearing may determine the application or request without an oral hearing. In relation to such applications or requests, paragraph 1.4 below does not apply.

1.4 The quorum for proceedings before the Hearings Committee is five. One designated alternate may act as a member of the Hearings Committee in a relevant member's place when he or she is unavailable. Members of the Hearings Committee and any designated alternates proposing to attend a hearing of the Hearings Committee must raise with the chairman of the hearing any issues concerning possible conflicts of interest prior to the start of the hearing. The Hearings Committee can be convened at short notice, where necessary, and no specific notice period is required.

1.5 A party must raise with the chairman of the hearing any issues concerning possible conflicts of interest in relation to members of the Hearings Committee and any other objections in relation to the composition of the Hearings Committee or the conduct of the proceedings. Any such issues or objections must be raised at the earliest opportunity, and shall be considered and ruled upon by the chairman of the hearing.

1.6 The chairman of the hearing shall appoint a third party to act as Secretary to the hearing, acting as an officer of the Panel, to perform such functions as the chairman of the hearing may direct. The Secretary must not have participated in any way in the matter at issue in the proceedings before the Hearings Committee and must be free from conflict of interest. Communications between the Hearings Committee and the parties shall usually be conducted through the Secretary.

1.7 The Hearings Committee or the chairman of the hearing may obtain external legal or other independent professional advice, and may seek to secure the attendance at its proceedings of third parties with the relevant experience and expertise if it considers this to be necessary for the fulfilment of its duties.

1.8 Any ruling of the Executive shall stand pending determination of the proceedings before the Hearings Committee, unless otherwise directed by the Hearings Committee or the chairman of the hearing.

1.9 References to “rulings ” shall include any decision, direction, determination, order or other instruction made under these Rules of Procedure.

## **2. CONDUCT OF PROCEEDINGS BEFORE THE HEARINGS COMMITTEE**

2.1 Proceedings shall be conducted on an informal basis. In particular, no formal rules of evidence shall apply.

2.2 The Hearings Committee may sit at such times and in such places as either it or the chairman of the hearing deems most convenient and appropriate in all the circumstances.

2.3 Any ruling made by the chairman of the hearing in accordance with these Rules of Procedure (including procedural directions) is a ruling of the Hearings Committee.

2.4 The Hearings Committee or the chairman of the hearing may give such procedural directions as either it or he considers appropriate for the fair and just conduct and determination of the case, including the extension or shortening of any specified time limits and the alteration or variation of the rules set out at paragraphs 2.5 to 2.19 of these Rules of Procedure. A party may apply, at any time during the proceedings, to the chairman of the hearing for procedural directions.

2.5 The Hearings Committee may draw such adverse inferences as it deems proper from any failure of a party to proceedings before it to comply in full and on time with any procedural direction, and may take such action as it considers appropriate in relation to such failure. In particular, it may, where it considers appropriate, treat such a party as no longer being interested in pursuing proceedings before the Hearings Committee (which may result in the dismissal of the proceedings) or refuse such a party any further participation in such proceedings . In particular, in disciplinary matters, the Hearings Committee may draw such adverse inferences as it deems proper from any failure by a respondent to attend any hearing or from the choice by the respondent to remain silent at the hearing.

2.6 Save for the circumstances set out in paragraph 1.3 above, proceedings before the Hearings Committee shall be by way of a complete hearing at first instance of all matters contested.

2.7 In any proceedings before the Hearings Committee, the Executive shall be treated in the same manner as any other party to the proceedings.

2.8 Without prejudice to the generality of paragraph 2.4 above, the chairman of the hearing may direct any party to proceedings before the Hearings Committee, at a time and place and in a manner as directed: (i) to submit written statement(s) of case, setting out the party’s position and the remedy requested (if any), and exhibiting any evidence upon which the party relies; (ii) to produce to the Hearings Committee and/or to any other party any document or information or other item relevant to the

proceedings; (iii) to call any person to attend, or give evidence at, the hearing; and (iv) to notify the Hearings Committee of any procedural issue which it wishes to raise in the proceedings.

2.9 Proceedings before the Hearings Committee shall be held in private, unless the chairman of the hearing, at his discretion, directs otherwise. Any party may request that the hearing be held in public and such a request shall be considered and ruled upon by the chairman of the hearing (or, at the discretion of the chairman of the hearing, by the Hearings Committee itself).

2.10 The Hearings Committee or the chairman of the hearing may, upon application of a party, and if satisfied that it is appropriate in the circumstances, direct that certain confidential or commercially sensitive evidence be heard in the absence of one or more of the parties to the proceedings. Save as otherwise provided in these Rules of Procedure, all parties will be entitled to be present throughout the hearing and to see all papers submitted to the Hearings Committee.

2.11 In the event of a public hearing, the Hearings Committee or the chairman of the hearing may direct that the Hearings Committee shall hear part or parts of the proceedings in private and may impose such conditions (including in relation to the non-disclosure of information relating to the proceedings) as it or he considers necessary and appropriate.

2.12 The case shall be presented in person by the parties or their advisers. Parties may, if they so wish, be represented by legal advisers. Failure by a party to attend a hearing or be represented at a hearing shall not prevent the Hearings Committee or the chairman of the hearing proceeding in the absence of that party.

2.13 Any party may, subject to the consent of the chairman of the hearing, call witnesses at the hearing.

2.14 A recording of the hearing shall be made for administrative purposes, but will not be retained once the proceedings are brought to an end. A transcript of the hearing will also be made. Any party to the hearing may request a copy of the transcript, and such a request shall be considered and ruled upon by the chairman of the hearing who may impose conditions as to its confidentiality and use.

2.15 Deliberations of the Hearings Committee shall be conducted in the absence of the parties. Rulings of the Hearings Committee shall be by majority vote; where necessary the chairman of the hearing shall have a casting vote.

2.16 On determining the matter, the Hearings Committee may, in its ruling and in accordance with the Introduction to the Code, grant such remedies, impose such sanctions and/or make such directions as appear to the Hearings Committee to be necessary and appropriate in the circumstances of the case. Where appropriate, the Hearings Committee may give directions regarding the effects of the Executive's ruling (if any) and/or of its ruling pending the outcome of an appeal (if any) to the Takeover Appeal Board (the "Board").

2.17 The chairman of the hearing shall sign the ruling of the Hearings Committee. The Hearings Committee will provide a copy of its ruling in writing to the parties as

soon as practicable following the hearing. The ruling of the Hearings Committee is binding on the parties to the proceedings, and on those invited to participate in those proceedings, unless and until the Board decides otherwise.

2.18 The Hearings Committee will usually publish its ruling and reasons by means of a Panel Statement. Any Panel Statement will usually be issued as promptly as possible, having regard to all the circumstances of the case, after the ruling has been provided in writing to the parties. The chairman of the hearing may, upon application by any party, redact matters from the Panel Statement in order to protect confidential or commercially sensitive information. In certain circumstances, the Hearings Committee may issue a Panel Statement of its ruling (without providing reasons at this stage) in advance of the publication of the full ruling. In other circumstances, the Hearings Committee or the chairman of the hearing may suspend publication of any Panel Statement if there is, or may be, an appeal to the Board against a ruling of the Hearings Committee, in which circumstances an interim announcement may be made where appropriate. If there is an appeal, publication may, at the discretion of the chairman of the hearing, be suspended until after the decision of the Board or, in particular if the appeal is upheld, withheld altogether.

2.19 Panel Statements shall be made available on the Panel's website ([www.thetakeoverpanel.org.uk](http://www.thetakeoverpanel.org.uk)).

2.20 The validity of any acts or proceedings of the Committee shall not be affected by any vacancy among the membership of the Committee or by any defect in the appointment of any Committee member (or designated alternate).

### **3. RIGHT OF APPEAL**

3.1 Any party to the hearing before the Hearings Committee (or any person denied permission to be a party to the hearing before the Hearings Committee) (an "Appellant") may appeal against any ruling of the Hearings Committee by lodging a Notice of Appeal as prescribed in paragraph 1.2 of the Rules of the Board.

3.2 The Hearings Committee or the chairman of the hearing may stipulate a reasonable time within which a Notice of Appeal must be lodged by the Appellant with the Board and simultaneously notified to the other parties to the hearing. If no such stipulation is made, a Notice of Appeal must be lodged with the Board by the Appellant and simultaneously notified to the other parties to the hearing within two business days of the receipt in writing by the Appellant of the ruling of the Hearings Committee or the chairman of the hearing in question.

3.3 Any ruling of the Hearings Committee shall stand pending determination of any appeal, unless otherwise directed by the Hearings Committee or the chairman of the hearing.

### **4. MATTERS REMITTED FROM THE BOARD**

On a matter being remitted from the Board, the Hearings Committee shall itself take, or direct an officer or member of staff of the Panel to take, such steps as are appropriate, including, where necessary, the making of rulings or an application to

court, to give effect to the decision and directions (if any) of the Board in a particular matter.

**Adopted by the Code Committee on 6 March 2007.**