



Ministry
of Defence

Cabinet Office: Triennial Review - Advisory Committee on Conscientious Objectors (ACCO)

**Summary of the Governance of ACCO as a Non-Departmental
Public Body**

Principle	The Minister is ultimately accountable to Parliament and the public for the overall performance, and continued existence, of the Committee.		
Provision	<p>The Minister and sponsoring department should exercise appropriate scrutiny and oversight of the advisory NDPB. This includes oversight of any public monies spent by, or on behalf of, the body.</p>	<p>(p4). The Committee is an advisory body and has no executive functions that require funding. Costs are only incurred if the Committee is called upon to advise in appeal cases which has been infrequent, most recently in 2010 and prior to that in 1996. The Committee's Chair and Deputy Chair, as serving members (salaried) of the judiciary, are not paid a fee when their services are required. Lay members are paid a daily rate plus expenses. The cost of running the Committee is small, and is provided and administered by the sponsoring department which carries out the required financial controls. The cost of the last hearing in 2010 was £669.97, which comprised of £200 each for the lay members plus £269.97 expenses. Secretariat support for the Committee is provided by the existing Central Legal Services team within the MOD.</p>	Complied
Provision	<p>Appointments to the advisory NDPB should be made in line with any statutory requirements and, where appropriate, with the Code of Practice issued by the Commissioner for Public Appointments.</p>	<p>(p5). Appointments to the Committee are made by the Lord Chancellor independent of the sponsoring department (MOD). These appointments reflect the judicial nature of the Committee, and the need for independence from the MOD. As such, the MOD plays no role in the appointment, reappointment or appraisal of any of the Committee's members.</p> <p>(p6). The Chair and Deputy Chair appointments are exempt from the Office of the Commissioner for Public Appointments (OCPA) process under an exclusion in the Order in Council made in July 2012. Lay members' appointments are covered by the Code of Practice issued by the OCPA taking full account of the need for proportionality due to the nature of the Committee.</p>	Complied
Provision	<p>The Minister will normally appoint the chair and all board members of the advisory NDPB and be able to remove individuals whose performance or conduct is unsatisfactory.</p>	<p>(p7). The Lord Chancellor can remove any individual whose performance or conduct is unsatisfactory.</p>	Complied

Provision	The Minister should meet the chair on a regular basis.	<p>(p8). The Committee sits only to hear appeals. The meetings of the Committee are infrequent. There have been two meetings in the last approximately fifteen years, most recently in 2010 and prior to that in 1996.</p> <p>(p9). The function of the Committee is essentially a judicial one and contact between the Minister and the Chair could be perceived by some as having the potential to compromise the independence of the judiciary process.</p>	Not complied (explained)
Provision	There should be a requirement to inform Parliament and the public of the work of the advisory NDPB in an annual report (or equivalent publication) proportionate to its role.	(p10). The MOD published a NDPBs Annual Report (including ACCO) that is placed on the Cabinet Office website (for example, MOD Non-Departmental Public Bodies 2010-2011 published in November 2011). Earlier annual reports are available within the sponsoring department.	Complied
Provision	The advisory NDPB must be compliant with Data Protection legislation.	(p11). The Committee is compliant with data protection legislation and the review found that the records are held by the Central Legal Services. Committee members only have access to the records held in relation to the casework and have no other access to any of the MOD data systems. The Committee has not received any data protection enquiries.	Complied
Principle	The departmental board ensures that there are appropriate governance arrangements in place with the advisory NDPB, and that there is a sponsor team within the department that provides appropriate oversight and scrutiny of, and support and assistance to the advisory NDPB.		
Provision	The departmental board's agenda should include scrutiny of the performance of the advisory NDPB proportionate to its size and role.	(p12). The Committee is an independent and impartial body and provides an effective mechanism for personnel who are dissatisfied with decisions made in respect of them by their chain of command. Accordingly, the Committee is not monitored by the Departmental Board. It is observed by the Command Discipline and Constitutional Division (CD&C Division), which has responsibility for liaising between the Department and the ACCO, and for ensuring that the Secretary of State for Defence is put on notice of any key decisions made by the Committee and for reporting the decisions arrived at after hearing an appeal. However, the department board's agenda does not	Not complied (recommendation)

		include scrutiny of the performance of all its eleven advisory NDPBs, including the ACCO. Recommendation 1: <i>The Departmental Board must strengthen its corporate governance arrangement and monitor the performance of the relevant advisory bodies appropriately in accordance with their nature, size and role.</i>	
Provision	There should be a document in place which sets out clearly the terms of reference of the advisory NDPB. It should be accessible and understood by the sponsoring department and by the chair and members of the advisory NDPB. It should be regularly reviewed and updated.	(p14). The Committee carries out its function within agreed written terms of reference, which have been regularly reviewed and updated. The terms of reference are issued to members of the Committee and attached to their letters of appointment, copies of which are also available within the sponsoring department.	Complied
Provision	There should be a dedicated sponsor team within the parent department. The role of the sponsor team should be clearly defined.	(p15). A Department sponsor team provides appropriate and proportionate oversight and scrutiny of the Committee. Sponsorship is delivered through the Central Legal Services' Command Discipline and Constitutional Division. Within this Division, the Central Legal Services provides secretariat support to the Committee, comprising one day-to-day administrative staff and one legal advisor who provides additional support if necessary. There is minimal work required unless there is a tribunal hearing or a triennial review taking place.	Complied
Provision	There should be regular and ongoing dialogue between the sponsoring department and the advisory NDPB.	(p16). Dialogue is achieved through the use of the Secretariat as a conduit between the Committee and the sponsoring department during the appeal process, and in regard to any appointment processes and the provision of secretariat support when the Committee hears a case.	Complied
Provision	There should be an annual evaluation of the performance of the advisory NDPB and any supporting	(p17). The sponsoring department observes the actions and decisions of the Committee. This consists of consideration of the annual report, ongoing stewardship input by the CD&C Division throughout the year into the work of the Committee and the quality of its	Complied

	committees – and of the Chair and individual members.	<p>advice to the Secretary of State for Defence. This is a proportionate approach reflecting the role of the Committee as an advisory body. However, there is no formal annual evaluation of the performance of the Committee.</p> <p>Recommendation 2: <i>The sponsoring department should strengthen the terms of reference by stating clearly that the Department is responsible for assessing the effective performance of the Committee.</i></p>	
Principle	The Chair is responsible for leadership of the ACCO and for ensuring its overall effectiveness.		
Provision	The advisory NDPB should be led by a non-executive chair.	(p18). The ACCO Chair is led by a serving judicial office holder who is legally qualified and ideally has an understanding of the terms of engagement of service personnel (for example, the former Chair, who heard the 2010 appeal case, had previously held the post of an Assistant Judge Advocate General). The Chair of the Committee directs the Committee's work and ensures its overall effectiveness, involving other members to ensure that the work is shared and that the skills and experience of the other members are fully utilised.	Complied
Provision	There should be a formal, rigorous and transparent process for the appointment of the chair. This should be compliant with the Code of Practice issued by the Commissioner for Public Appointments. The chair should have a clearly defined role in the appointment of non-executive board members.	(p19). The Lord Chancellor, who is independent of the MOD, appoints the Chair and Deputy Chair following recommendations by the Lord Chief Justice, as Head of the Judiciary. These appointments are exempt from the Office of Commissioner for Public Appointments (OCPA) process under the Order in Council made in July 2012. The ACCO is not listed in Schedule 14 of the Constitutional Reform Act (2005) and therefore does not require a selection exercise to be undertaken by the Judiciary Appointment Commission.	Complied
Provision	The duties, role and responsibilities, terms of office and remuneration (if only expenses) of the chair should be set out clearly and formally defined in writing. Terms and conditions must be	(p20). The Chair is a serving judge (salaried) and is therefore not entitled to claim a fee under its existing terms and conditions as a Circuit Judge. The Chair carries out the duties of the Committee within agreed written terms of reference, which have been regularly reviewed and updated. A copy of the Job Description is also provided to the Chair.	Complied

	in line with Cabinet Office guidance and with any statutory requirements.	<p>(p21). The Chair is responsible for advising the Secretary of State for Defence regarding all claims to conscientious objection to further service in the Armed Forces from Service personnel, whose applications to prematurely leave the armed forces have been refused by the Service Authorities. The Chair ensures that the Committee in reaching decisions, takes proper account of guidance provided by the sponsoring department.</p> <p>(p22). There is no formal induction process for new members and the Committee decides its own hearing procedures in consultation with the MOD. When the Committee met in the last hearing in 2010, the review has found that the Chair had briefed the members prior to the hearing on the procedure adopted at Tribunal hearings.</p> <p>(p23). This review noted that the Chair is not asked to advise the sponsoring department about member appointments or re-appointments. Neither is he required to undertake an annual assessment of members.</p> <p>Recommendation 3: <i>The sponsoring department in consultation with the Ministry of Justice on behalf of the Lord Chancellor, to consider whether the Chair should become involved with lay member appointments or reappointment, including the skills and experience required by the Committee.</i></p>	
Principle	The members should provide independent, expert advice.		
Provision	There should be a formal, rigorous and transparent process for the appointment of members to the advisory NDPB. This should be compliant with the Code of Practice issued by the Commissioner for Public Appointments.	<p>(p25). This review was unable to confirm that their reappointments are in line with the OCPA Code of Practice. This specifies that no reappointment or extension is made without a satisfactory assessment of performance. Members' letters of appointment set out the rules regarding the acceptance of appointments.</p> <p>Recommendation 4: <i>The Chair should be asked to confirm the members' re-appointment to ensure that no question of cause for non-renewal is raised, and this is then put to the Lord Chancellor to make the re-appointment. It would be unnecessarily burdensome to do this every year.</i></p>	Not complied (recommendation)
Provision	Members should be properly independent	(p26). Members are independent of the Department and of any vested interest, and this is recorded.	Complied

	of the Department and of any vested interest (unless serving in an ex-officio or representative capacity).		
Provision	Members should be drawn from a wide range of diverse backgrounds, but should have knowledge and expertise in the field within which the body has been set up to advise ministers. The advisory NDPBs as a whole should have an appropriate balance of skills, experience, independence and knowledge.	(p27). Members are drawn from a wide range of diverse backgrounds (as in Guide for Applicants 2001), as is reasonably compatible with providing the Secretary of State for Defence with expert, robust advice.	Complied
Provision	The duties, role and responsibilities, terms of office and remuneration of members should be set out clearly and formally defined in writing. Terms and conditions must be in line with Cabinet Office guidance and with any statutory requirements.	(p28). Members are provided with details of their roles and responsibilities, their terms of office, expenses and fees when they are appointed.	Complied
Provision	All members must allocate sufficient time to the advisory NDPBs to discharge their responsibilities effectively.	Sufficient time is allocated to the Committee to discharge their responsibilities effectively (for example, the 2010 hearing was concluded within the same day).	Complied
Provision	There should be a proper induction process for new members. This should be led by the chair. There	(p22). There is no formal induction process for new members and the Committee decides its own hearing procedures in consultation with the MOD. When the Committee met in the last hearing in 2010, the review has found that the Chair had briefed the members prior	Not complied (explained)

	should be regular reviews by the chair of individual members' training and development needs.	to the hearing on the procedure adopted at Tribunal hearings.	
Principle	The advisory NDPB should be open, transparent, accountable and responsive.		
Provision	The advisory NDPB should operate in line with the statutory requirements and spirit of the Freedom of Information Act 2000.	(p30). Freedom of Information requests have been dealt with by the sponsoring department in line with the statutory requirements and the spirit of the Freedom of Information Act 2000. The sponsoring department received three requests in the past three years. These were dealt with within specified time limits and are available on the ACCO page on the government website (www.gov.uk).	Complied
Provision	The advisory NDPB should make an explicit commitment to openness in all its activities. Where appropriate, it should establish clear and effective channels of communication with key stakeholders. It should engage and consult with the public on issues of real public interest or concern. This might include holding open meetings or annual public meetings. The results of reviews or inquiries should be published.	(p31). All appeal hearings are held in public and demonstrate the Committee's commitment to the spirit of openness. The outcome of the 2010 appeal was announced at the end of the hearing.	Complied
Provision	The advisory NDPB should proactively publish agendas and minutes of its meetings.	(p32). The Committee meets only to hear appeals and for no other reasons. It is not practical to publish the minutes of the hearing due to the personal nature of the Committee. The review of the 2010 case file has found that the Committee discussed highly sensitive and personal matters.	Not complied (explained)
Provision	There should be robust and effective	The review found that letters were sent to members asking them to declare any political	Complied

	systems in place to ensure that the advisory NDPB is not, and is not perceived to be, engaging in political lobbying. There should also be restrictions on members attending Party Conferences in a professional capacity	interests or attendance of Party Conferences. These, and the subsequent responses from members, show that a robust and effective system is in place.	
Principle	Members should work to the highest personal and professional standards. They should promote the values of the advisory Committee and of good governance through their conduct and behaviour.		
Provision	A Code of Conduct must be in place setting out the standards of personal and professional behaviour expected of all members. This should follow the Cabinet Office Code. All members should be aware of the Code. The Code should form part of the terms and conditions of appointment.	(p34). Members are aware of, and have received a copy of, the Cabinet Office Code of Conduct for Members of Public Bodies. This includes guidance on political activities and the conduct required of members, including the key principles of public life.	Complied
Provision	There are clear rules and procedures in place for managing conflicts of interest. There is a publicly available Register of Interests for members. This is regularly updated.	(p35). Members are also aware of the rules and procedures for declaring conflicts of interest. However, the Register of Interests has not been updated since 2004. Recommendation 5: <i>That the Register of Interests should be reviewed and regularly updated.</i>	Not complied (recommendation)
Provision	There must be clear rules in place governing the claiming of expenses. These should be published. Effective systems should be in place to ensure	(p36). There are clear rules, in line with the civil service arrangements, for claiming expenses. The review found that the expenses claimed in 2010 were approved by the sponsoring department and a record kept for review.	Complied

	compliance with these rules.		
Provision	There are clear rules and guidelines in place on political activity for members and that there are effective systems in place to ensure compliance with any restrictions.	The review found that letters were sent to members asking them to declare any political interests or attendance of Party Conferences. These, and the subsequent responses from members, show that a robust and effective system is in place.	Complied
Provision	There are rules in place for members on the acceptance of appointments or employment after resignation or retirement. These are enforced effectively.	Members' letters of appointment set out the rules regarding the acceptance of appointments.	Complied