

TeCSA

TECHNOLOGY AND CONSTRUCTION SOLICITORS
ASSOCIATION

www.tecsa.org.uk

ADJUDICATION SERVICE

~~May 2014~~

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1 INTRODUCTION

- 1.1 This document sets out the Adjudication Service offered by TeCSA and the requirements for TeCSA Adjudicators.
- 1.2 Where in this document an obligation is expressed to be carried out by the Chairman of TeCSA (the "**Chairman**"), such obligation may in the alternative be carried out by such other member of the TeCSA Committee as the Chairman shall nominate as his alternate.
- 1.3 Reference in this document to the masculine includes the feminine and vice versa.

2 OVERRIDING OBJECTIVE

The overriding objective of the TeCSA Adjudication Service is to promote high quality dispute resolution processes to the construction, engineering and technology industries.

3 THE ADJUDICATOR LIST

In its capacity as an Adjudicator Nominating Body, TeCSA maintains a List of Adjudicators (the "**Adjudicator List**").

4 NOMINATION PROCESS

- 4.1 A party wishing TeCSA to nominate an adjudicator should complete the application form and send it, with the applicable fee, to the Chairman. The form is available on the TeCSA website.
- 4.2 The application [form](#) should identify the preferred discipline and the subject matter of the dispute.
- ~~4.2~~ [4.3](#) The Chairman will review the application and any accompanying paperwork to check that it has been issued in sufficient time to permit a nomination to be made.
- [4.4](#) At the same time as the application is submitted to the Chairman a copy of the completed application form (and any accompanying or preceding communications with TeCSA) should be sent by email (or, if no email address is known for the other party, by first class post) to the responding party and copying in the Chairman. TeCSA is under no obligation to provide a copy of the application form or any other document or communication to the other party.
- [4.5](#) Subject to ~~that~~the above, the Chairman in his absolute discretion will nominate such adjudicator from the Adjudicator List as ~~to the Chairman~~ appears appropriate, to the Chairman having regard to, inter alia:

- the subject matter of the dispute;

- the professional discipline and office location of the proposed adjudicator;
- the location of the parties; ~~and~~
- in the case of more than one dispute concerning the same project, whether it is desirable that the same adjudicator be appointed; ~~and~~
- any conflict of interests and / or concerns as to apparent bias.

4.6 ~~Save in the case of a genuine legal conflict, in making its nomination TeCSA will not~~
TeCSA retains absolute discretion to nominate the adjudicator and has no duty to take into account ~~any~~ preferences expressed by either party ~~as to the names of adjudicators to be excluded from the nomination process.~~

4.7 TeCSA has no obligation to disclose its reasoning or any deliberations made when nominating an adjudicator.

5 ADJUDICATOR REQUIREMENTS AND ASSESSMENT PROCEDURE

Each adjudicator on the Adjudicator List shall:

- ~~Give~~ Upon receipt of an enquiry as to availability and eligibility for a nomination by the Chairman, whenever responding to such enquiry in the affirmative (by email or otherwise) thereby be deemed to give the undertaking in the form attached at **Appendix 1** (as amended from time to time) (the "**TeCSA Adjudicator Undertaking**"). The undertaking can be confirmed and provided by way of email;
- Undertake the Continuing Professional Development required by TeCSA from time to time. TeCSA's current requirements are set out in **Appendix 2** attached (the "**Requirements for TeCSA Adjudicators' Continuing Professional Development ("CPD")**");
- Be regularly and independently assessed in accordance with the requirements of TeCSA from time to time. TeCSA's current requirements are set out in **Appendix 3** attached (the "**TeCSA Adjudicator Assessment Procedure**").

6 FEEDBACK FROM USERS/ADVERSE JUDICIAL CRITICISM

6.1 The Chairman will routinely invite feedback from parties by way of the questionnaire at **Appendix 4** attached (the "**TeCSA Adjudicator Feedback Form**"). The Chairman may investigate any adverse feedback received (whether in response to any questionnaire or otherwise), and/or any adverse judicial criticism made and known to TeCSA, concerning any adjudicator.

- 6.2 The Chairman will provide any feedback received and/or any adverse judicial criticism made about an adjudicator to the Assessors appointed in accordance with the TeCSA Adjudicator Assessment Procedure.
- 6.3 Following his investigation the Chairman may in his absolute discretion decide that any adverse feedback and/or adverse judicial criticism concerning any adjudicator gives sufficient grounds to institute an Ad Hoc Assessment under the TeCSA Adjudicator Assessment Procedure.
- 6.4 Any adjudicator who is the subject of any adverse criticism shall be given an opportunity to comment on the information provided to the Assessors appointed in accordance with the TeCSA Adjudicator Assessment Procedure.

7 GRIEVANCE PROCEDURE

If an Adjudicator is dissatisfied with any decision made by TeCSA or any representative of TeCSA then it shall be dealt with subject to and in accordance with the Grievance Procedure incorporated in **Appendix 5** (the "**TeCSA Adjudicator Grievance Procedure**").

Appendix 1

TeCSA Adjudicator Undertaking

I acknowledge that I have been assessed by TeCSA as suitable to receive appointments made by the Chairman. I shall:

- 1 Ensure that I or my firm maintain the necessary and appropriate professional indemnity insurance cover for my work. I confirm I will not accept appointments or undertake such work if I do not have such cover.
- 2 Respond in good time to the Chairman when offered appointments. I recognise that if I take longer to respond than required by the relevant contract, or a time stated by the Chairman in his invitation, whichever is the shortest, the Chairman may offer the appointment to another person without contacting me. I also recognise the need to perform any duties in relation to disputes within appropriate timescales.
- 3 Have appropriate methods of email communication available for all communication with TeCSA. I will normally use email to communicate with TeCSA unless the system is temporarily out of use at either end.
- 4 Conduct the Adjudication in accordance with whatever rules are applicable under the relevant contract.
- 5 Promptly provide any feedback in relation to an adjudication case history at the request of the Chairman.
- 6 Comply with TeCSA's Adjudication Assessment Procedure from time to time notified to me.
- 7 Keep TeCSA informed about any changes to the geographical and sectoral areas of my skills/work for future appointments and keep my CV up to date.
- 8 ~~Disclose~~ Without limitation but having regard to the guidance on conflicts of interest and apparent bias on the TeCSA website from time to time, not accept any proposed appointment where I have any conflict of interest in relation to any proposed appointment. ~~I shall also disclose any matter affecting any special requirement indicated in details provided by TeCSA, details of any other past or existing appointments, or issues that I know may arise during my appointment or in the future, which might have an impact on the appointment and / or where I am aware of any involvements, interests, relationships or other matters which might reasonably be perceived as likely to affect my independence or impartiality.~~

9 Ensure that my fees shall not exceed the rate of ~~£1,750~~ £2,500¹ per day plus expenses and VAT and shall not require any advance payment of or security for my fees.

I recognise I have a duty to uphold the appropriate professional and personal standards appropriate to enable the Chairman from time to time to have confidence in making appointments.

I recognise I must notify TeCSA of any occasion where I have been the subject of judicial comments/criticism. I also undertake to co-operate with any complaints procedures TeCSA puts in place from time.

I recognise that membership of the TeCSA List of Adjudicators does not guarantee a quota of (or any) appointments.

In ~~signing and returning this document~~ accepting any nomination by TeCSA to act as an Adjudicator I confirm my ongoing commitment to all of these matters ~~without the need to make further declarations to TeCSA other than when requested specifically by TeCSA to do so~~ and will, as soon as practicable, bring to the attention of both parties any issues of which I become aware which might reasonably be perceived as likely to give rise to a conflict of interest and / or apparent bias at any future stage of that Adjudication up to the date of issue of my Decision.

¹ This figure will be reviewed by TeCSA from time to time

Signed :

Date :

Appendix 2

Requirements for TeCSA Adjudicators' Continuing Professional Development ("CPD")

1 INTRODUCTION

- 1.1 It is important that those included on the Adjudicator List maintain their knowledge and experience and keep up to date with developments in the law affecting adjudication. Also, it is essential for the wellbeing of the adjudication process, as well as for the reputation of TeCSA, that it maintains the highest quality of adjudication expertise.
- 1.2 In order to achieve these objectives TeCSA requires a minimum level of CPD to be undertaken by adjudicators wishing to remain on the Adjudicator List. All adjudicators are required to make annual returns relating to the period from 1 August to 31 July, detailing:
- their experience acting as adjudicator;
 - their experience of advising a party, representing a party and/or in pupillage in adjudication; and
 - other appropriate education and training undertaken.
- 1.3 The level of CPD required for adjudicators is intended to reflect the knowledge and experience needed to successfully undertake the role of adjudicator. Adjudication can contribute considerably to the resolution of disputes without resort to arbitration or litigation. It can only do this successfully if those who serve as adjudicators are capable of delivering consistently high quality decisions.

2 CPD REQUIREMENTS

- 2.1 The minimum amount of CPD that each adjudicator is required to undertake each year is 24 hours, of which:
- a minimum of 8 hours must consist of practical adjudication experience; and
 - a minimum of 16 hours must consist of other appropriate CPD elements.
- 2.2 Practical adjudication experience will consist of:

- (a) acting as adjudicator in disputes for which CPD will be awarded as the number of charged hours spent up to a maximum of 8 hours per adjudication; and
- (b) advising and/or representing a party in adjudication for which CPD will be awarded as the number of charged hours spent up to a maximum of 4 hours per adjudication; and
- (c) pupillage.

2.3 Other appropriate CPD elements consist of:

- (a) Courses on adjudication.
- (b) Attendance at adjudicator workshops or surgeries.
- (c) Attendance at meetings/workshops on legal updates.
- (d) Lecturing on adjudication including preparation.
- (e) Technical authorship on adjudication.
- (f) Service on committees or panels concerned with adjudication.

2.4 At least 6 hours must be spent on 2.3(a) and/or 2.3(b) and/or 2.3(d) in any year.

3 ASSESSMENT

3.1 Annual returns are assessed each year by the Adjudication Review Panel appointed from time to time by the Chairman. In addition, adjudicators will be formally assessed at least every 5 years (see the TeCSA Adjudicator Assessment Procedure).

3.2 The Adjudication Review Panel will investigate the reasons why any adjudicator's CPD does not meet the requirements, seek the reasons for the shortfall and may for this purpose require the adjudicator to provide whatever further information it considers necessary and/or desirable. If the Adjudication Review Panel does not receive satisfactory explanations and is concerned about the TeCSA adjudicator's CPD and/or his ability to carry out the role of adjudicator satisfactorily then the Adjudication Review Panel may recommend to the Chairman that:

- (a) the adjudicator should attend further training, submit a written decision on a Case Study, undertake pupillage or take some other remedial action (requiring evidence of such) during a temporary period of suspension from the Adjudicator List; or
- (a) the adjudicator's name be removed from the Adjudicator List.

3.3 The Chairman will consider any recommendation made under paragraph 3.2 above. Provided he is satisfied with the recommendation, the Chairman will decide to adopt the recommendation and inform the adjudicator accordingly.

4 GENERAL AND ADMINISTRATION

4.1 Annual returns, as described in paragraph 1.2 above, are to be made on the forms provided by TeCSA from time to time. The returns will normally be sent out at the end of September each year. Time claimed as CPD experience should not be duplicated under the various categories.

4.2 Adjudicators are also required to update their CV published in the Adjudicator List to keep up with their current employment and reflect increased experience and responsibilities. The Adjudicator List will normally be updated in January and published on the TeCSA website.

4.3 An annual fee of £300, is payable to cover the costs of adjudicator assessments, including the annual CPD returns, and updating the Adjudicator List. Invoices will normally be sent out in December when members are asked to update their CVs. Failure to pay the annual fee or submit the annual CPD returns following a reminder may be treated by TeCSA as constituting resignation from the Adjudicator List.

4.4 All enquiries concerning CPD or further information on adjudication and admission to the Adjudicator List should be directed to:

Chairman of TeCSA
~~Simon Tolson~~
~~Fenwick Elliott~~
~~Aldwych House~~
~~71-91 Aldwych~~
~~London~~
William Gard
Burges Salmon LLP.
One Glass Wharf.
Bristol
BS2 0ZX

~~WC2B 4HN~~

Further information can also be obtained
by visiting the TeCSA website at www.tecsa.org.uk

Appendix 3

TeCSA Adjudicator Assessment Procedure

1 INTRODUCTION

- 1.1 TeCSA has introduced an assessment procedure for adjudicators, commencing in 2011. The assessment will include the review of 2 (redacted) reasoned decisions and accompanying procedural directions made by the adjudicator and also an interview, as described below.

2 THE PROCEDURE

- 2.1 The aim of the assessment procedure is to maintain the high standards expected of TeCSA as an Adjudicator Nominating Body ("**ANB**") in regard to:

- (a) the conduct of adjudications; and
- (b) written decisions.

- 2.2 Save in the case of an Ad Hoc Assessment (see section 3 below), generally all adjudicators on the Adjudicator List will be assessed once every five years by rotation. The names of those to be assessed in each year will be selected by the Chairman in his absolute discretion.

- 2.3 The assessments will be carried out by 2 assessors (the "**Assessor(s)**"), being members of the Adjudication Review Panel.

The appointment of the Assessors

- 2.4 TeCSA will write to each adjudicator to be assessed in the relevant year at the same time as the CPD annual return forms are requested, usually in September. The names of the proposed Assessors will be notified to the adjudicator to check for any conflict of interest. In the absence of any conflicts of interest, the Chairman in his absolute discretion will appoint the Assessors.

Submission of the redacted decision

- 2.5 The assessment will be conducted on the basis of:
- (a) 2 redacted reasoned decisions made by him in adjudications conducted in the previous 2 years (the "Decisions"); and
 - (b) the accompanying procedural directions given by the adjudicator in the course of the 2 adjudications in a) above (the "Directions").

Please note that in order to facilitate comprehension by the Assessors (whilst preserving anonymity), it is preferable for the Decisions and the Directions to be redacted by the substitution of fictitious names/locations, rather than by simply blanking out the original text.

- 2.6 The adjudicator will submit the Decisions and the Directions to the Assessors. No further documents used in the adjudication should be submitted. The Assessors and TeCSA undertake not to disclose any details of the Decisions or the Directions to any third party.
- 2.7 It is not the role of the Assessors to review the merits of the Decisions. TeCSA is looking to ensure that decisions and procedural directions are presented in a professional, logical and understandable manner. The assessment criteria to be followed in reviewing the Decisions are set out in **Schedule 1** to this document.

Procedure where no adjudications in the last 2 years

- 2.8 If the adjudicator has not conducted 2 adjudications within the previous two years he will be asked to explain why, with reasons, and submit 2 decisions and the accompanying procedural directions made within the previous five years. In the unlikely event that he has not conducted any such adjudications, he will again be asked to explain why, with reasons. Following their review of the reasons given by the adjudicator, the Assessors will:

Either

- (a) Agree that 2 decisions and the accompanying procedural directions made otherwise than within the previous 5 years shall constitute the Decisions and the Directions for the purposes of this TeCSA Adjudicator Assessment Procedure;

Or

- (b) Recommend to the Chairman that the adjudicator's performance overall in the review shall be deemed to be "*Not satisfactory*" and that the adjudicator's name should be removed from the Adjudicator List.

- 2.9 The Chairman will consider any recommendation made under paragraph 2.8 (b) above. Provided he is satisfied with the recommendation, the Chairman will decide to adopt the recommendation and inform the adjudicator accordingly.
- 2.10 Should TeCSA decide to remove the name of an adjudicator from the Adjudicator List he will be so informed as soon as possible.

The Interview

- 2.11 Following their initial assessment of the Decisions and the Directions, the Assessors will arrange an interview with the adjudicator lasting approximately 1 hour. The Chairman will provide to the Assessors in advance of the interview a history of any upheld TeCSA complaints, judicial criticisms known to TeCSA and any feedback received by TeCSA from the parties to any adjudication following an appointment, about the adjudicator over the period since the last review or entry onto the Adjudicator List, as appropriate. Any adjudicator who is the subject of any adverse criticism shall be given an opportunity to comment on the information provided to the Assessors.
- 2.12 At the interview the Assessors will raise points arising from their review of the Decisions and the Directions and any other matters that will enable them to assess the strengths and weaknesses of the adjudicator for the purpose of the assessment. Criteria to be considered during the interview process are set out in **Schedule 2** to this document. Should they consider it necessary or desirable to do so, the Assessors may require the adjudicator to provide further information.
- 2.13 On completion of the interview the Assessors will complete and forward to the Chairman of TeCSA an Adjudicator Assessment Report, to be signed by both Assessors, as shown in **Schedule 3** to this document. The Assessors will recommend as to whether the adjudicator's overall performance, including during the interview and the drafting of the Decisions and the Directions, is:
- (a) "Satisfactory";
 - (b) "Not Satisfactory" but the Assessors recommend remedial action which may enable the adjudicator to remain on the Adjudicator List. Such remedial action may include attending further training, submission of a written decision on a Case Study, undertaking pupillage or taking some other remedial action (requiring evidence of such) during a temporary period of suspension from the Adjudicator List;
 - (c) "Not Satisfactory" and the Assessors recommend that the adjudicator's name be removed from the Adjudicator List.
- 2.14 The Chairman will consider any recommendation made under paragraph 2.13 above. Provided he is satisfied with the recommendation, the Chairman will decide to confirm the recommendation and will inform the adjudicator accordingly.
- 2.15 Should TeCSA decide to remove the name of an adjudicator from the Adjudicator List he will be so informed as soon as possible.

- 2.16 All assessments will remain strictly confidential to the adjudicator, the Assessors and TeCSA. Assessments will not be available to any other person or body.

3 AD HOC ASSESSMENT

- 3.1 TeCSA may also institute an Ad Hoc Assessment of an adjudicator at any time where:
- (a) TeCSA upholds a complaint made about an adjudicator which in the opinion of the Chairman is such as to warrant an Ad Hoc Assessment;
 - (b) The adjudicator is the subject of judicial criticism which in the opinion of the Chairman is such as to warrant an Ad Hoc Assessment;
 - (c) The Chairman in his absolute discretion decides that any adverse feedback received concerning an adjudicator gives sufficient grounds to institute an Ad Hoc Assessment.
- 3.2 The procedure for such Ad Hoc Assessment will be the same as for the normal 5 yearly assessment.

4 APPEALS

- 4.1 The decision of TeCSA in respect of the review is binding until and unless overturned on appeal in accordance with TeCSA's grievance procedures from time to time in force.

Schedule 1

Criteria for assessment of the Decisions

1 The style and presentation of a written decision will vary between adjudicators, but certain information should always be included unless compelling reasons dictate otherwise. The Decisions should be reviewed by the Assessors under three headings, as follows:

Content

2 The content of the decision will be dictated by, amongst other things, the type, complexity and number of the issues, the extent and nature of the evidence and the personal style of the adjudicator.

3 The reiteration of evidence and the arguments of the parties should be limited to the extent that is necessary to enable the parties and any third party such as a judge, to understand how the adjudicator reached his conclusions. The parties are already aware of each other's submissions.

4 There should be sufficient commentary to indicate to the parties and any independent third party how the adjudicator has reached the decision. The reiteration of party submissions on a "cut and paste" process alone does not constitute reasons without further explanation.

5 Whatever is written should be set down in an orderly and logical sequence. If there is more than one issue or group of issues the evidence and argument relating to each and the conclusion reached should be separately identified.

6 Conclusions reached in the body of the decision may in fact be the adjudicator's decisions on the various issues but these should be collected and reiterated where appropriate. It can be confusing for decisions on the various issues to be scattered throughout the decision.

7 Any requirement for either party to do something should be accompanied by a timescale.

8 Sums of money are generally exclusive of VAT and this must be stated and explained if appropriate. Interest should be dealt with, if it has been raised by either party. The adjudicator's costs must be allocated, bearing in mind anything set down in the relevant adjudication procedure or rules. The matter of the parties' costs must also be addressed, if it has been raised by either party. The decision must be signed and dated.

9 In summary, the content of the decision should generally and ideally include/ or refer to:

Introduction

- (a) The parties' details;
- (b) Representatives of the parties;
- (c) Contract and Contract Conditions;
- (d) Contract adjudication procedure or Scheme;
- (e) Date of Notice of Adjudication;
- (f) Method of nomination/appointment and date of acceptance by the adjudicator;
- (g) Issues referred and redress sought;
- (h) Date of Referral; and
- (i) Date for Decision

Jurisdiction

- (j) Details of any challenge to jurisdiction;
- (k) Response from the other party; and
- (l) Adjudicator's conclusion on jurisdiction.

The Adjudication Process

- (m) Dates of Response & any Reply;
- (n) Date of any meeting;
- (o) Details of any information obtained through direct contact with either party or a third party;
- (p) Details of any extension of time for making the Decision; and
- (q) Details of any particular procedural problems.

Decision

- (r) Decision on all matters referred;
- (s) Set out the issues logically;
- (t) Apply the evidence to determine findings of fact;
- (u) Apply the law to the facts;

- (v) Set out conclusions for each matter referred;
- (w) Set out any declaration and/or who pays what to whom and when; and
- (x) Signature and date of the Decision;

Presentation

- 10 The decision should be set down tidily in a professional manner and should flow logically. It should be grammatically correct, free of clerical errors and free of clerical inconsistencies such as haphazard use of upper and lower case and paragraph errors. It should clearly identify the parties.
- 11 Repetition should be avoided except to the extent that it is necessary for understanding or clarity. The decision should not be written on company headed paper with the company or partnership logo.
- 12 Paragraphs should be numbered and section headings used throughout the decision to aid the reader in finding his way around the document.

Overall Quality

- 13 Before completing the Report for submission to TeCSA the Assessors should check as far a possible:
 - (a) Have all the matters referred been decided?
 - (b) Have any matters not referred been decided?
 - (c) Has all evidence and argument submitted been properly considered?
 - (d) Has all evidence and argument used been reviewed by both parties?
 - (e) Are the conclusions justified by the evidence and argument?
 - (f) Do the decisions follow logically from the conclusions?

Report

- 14 The Assessors shall assess the Decisions referred to them using the guidelines set out above

Schedule 2

Relevant Criteria for Assessment of the Adjudicator at Interview

To be assessed as competent to remain on the Adjudicator List an adjudicator must demonstrate to the Assessors that he satisfies the criteria laid out in this Appendix.

The Adjudication Process		
1	The ability to deal effectively with both threshold and subsequent jurisdictional problems and challenges. This requires a clear understanding of the criteria to be considered when determining whether and how to proceed and the need to communicate clearly to the parties any jurisdictional determination.	
2	Awareness of the need to operate within the boundaries of natural justice commensurate with the context of adjudication. There must be an understanding of the overriding importance of fairness in allowing parties to present their cases.	
3	Awareness of the risks of both real and apparent bias and the steps that could be taken to avoid reasonably foreseeable difficulties.	
4	A knowledge of relevant substantive law, particularly in respect of contract, tort, evidence and legislation sufficient to understand the context of legal arguments, so that a rational and reasoned decision can be made.	
5	The ability to identify, express and analyse the issues and sub-issues that need to be considered in reaching a decision.	
6	The ability to manage and control the process and to express procedural directions in a clear and logical way.	
7	The ability to apply judgemental skills throughout the process.	
8	The ability to provide concise, clear and logical reasons for a decision.	
9	The ability to manage the adjudication in a transparent, efficient and expedient manner.	
10	The ability to communicate a decision in a structured, fluent and logical fashion	
Professional engagement since the previous review		
11	Continuing active involvement in construction dispute resolution in general since the last review or entry to the Adjudicator List as appropriate (the "previous period").	
12	Active involvement in relevant CPD, taking into account any TeCSA Committee comments in respect of such over the previous period.	

	Previous upheld complaints or judicial criticism	
13	Acceptable performance in the carrying out of adjudications, taking into account any upheld TeCSA complaints and/or judicial criticism of the adjudicator in the previous period.	

Schedule 3

Adjudicator Assessment Report

Assessors' Names _____

Adjudicator's TeCSA Assessment Reference Number _____

Date referred to the Assessors by _____
TeCSA

1 This Report is an assessment by the Assessors named above of the Decisions and the Directions presented by the above referenced adjudicator to TeCSA for assessment as part of the review of members of the Adjudicator List. The Assessors shall complete the following table and conclude their assessment with a declaration as to whether they consider it to be "Satisfactory" or "Not Satisfactory", using the guidelines laid down from time to time by TeCSA as summarised in Schedule 1 of the Adjudicator Assessment Procedure.

	Satisfactory	Unsatisfactory
Directions		
Decisions		
- Content		
- Presentation		
- Overall Quality		
Overall		

2 This Report also covers the assessment of the adjudicator's performance over the previous period following an interview held on [] and covering the criteria set out in Schedule 2 of the Adjudicator Assessment Procedure

3 In the event of a "Not Satisfactory" assessment the Assessors shall set out their reasons for so concluding overleaf, together with (where appropriate) their recommendations for any remedial action.

Assessors' Declaration

Having reviewed the Decisions and the Directions and having interviewed the adjudicator we consider the adjudicator's performance over the period to be:

Satisfactory / Not Satisfactory (strike out as appropriate)

Where we have assessed it as **Not Satisfactory** we set out our reasons and recommendations (if any) overleaf:

Assessors

Name	Name
Signature	Signature
Date	Date

Reasons for assessment if **Not Satisfactory**:

Recommendations:

Excellent	Good	Average	Poor	Very Poor
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments

4. The Decision

How do you rate the Adjudicator's Decision? - Was the Decision written in a concise, clear and logical manner?

Excellent	Good	Average	Poor	Very Poor
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments

5. Overall

Overall, how do you rate your experience of the adjudication process?

Excellent	Good	Average	Poor	Very Poor
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments

Submitted by

Dated:

Appendix 5

TeCSA Grievance Procedure

1 INTRODUCTION

The aim of this appeals procedure is to determine any appeals where an adjudicator is dissatisfied with any decision made by TeCSA or any representative of TeCSA in respect of TeCSA's Adjudication Service (the "**TeCSA Decision**").

2 APPEALS PROCESS

2.1 An adjudicator who is dissatisfied with any TeCSA Decision (the "**Appellant**") may appeal by written notice (the "**Appeal Notice**") to the Chairman. Such written notice must be received by the Chairman within 28 days of the TeCSA Decision.

2.2 Following receipt of a valid Appeal Notice, the Chairman will in his or her absolute discretion appoint an Appeal Committee comprising three ~~members of the TeCSA Committee~~ appropriately qualified and experienced persons (the "**Appeal Committee**") and will nominate one of their number to act as chairman of the Appeal Committee (the "**Appeal Chairman**").

2.3 The Appeal Committee shall have access to all of the information forming the background to the TeCSA Decision ~~but will consider the TeCSA Decision de novo.~~ The Appeal Committee will review the facts and information available to the original decision maker of the TeCSA Decision as well as any new facts or information which, whilst not before the original decision makers of the TeCSA Decision, were in existence at the time of the TeCSA Decision and are relevant. The Appeal Chairman shall convene an appeal hearing at which the Appellant and representatives of TeCSA shall be entitled to appear and make representations as to matters relevant to the TeCSA Decision.

2.4 The Appellant and TeCSA shall each bear all of their legal or other costs or expenses arising out of the TeCSA Decision and/or this appeal process. The Appeal Committee's reasonable charges, costs and expenses shall be paid equally between the Appellant and TeCSA unless the Appeal Committee in its absolute discretion shall direct otherwise.

2.5 ~~2.4~~ Within 14 days of the completion of the appeal hearing, the Appeal Chairman will notify the Appellant in writing of the Appeal Committee's decision. Such decision shall either:

- (a) Confirm the original TeCSA Decision; or
- (b) Substitute a revised TeCSA Decision.

2.6 ~~2.5~~ The decision of the Appeal Committee shall be final and binding. There will no further appeal from a decision of the Appeal Committee.