

Review of the Independent Agricultural Appeals Panel

Review by the Department for Environment, Food and Rural Affairs

May 2012

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Executive Summary

1.1 This triennial review of the Independent Agricultural Appeals Panel (IAAP) was announced by Written Ministerial Statement on 15 December 2011. The review has been conducted in accordance with the Cabinet Office Guidance on Reviews of Non Departmental Public Bodies. It is the first such review undertaken by the Department for Environment, Food and Rural Affairs (Defra).

1.2 The review has concluded that there remains a need for the Panel in its current form. The Panel has a single function and that is to provide a source of independent advice to Ministers on the merits of decisions taken by the Rural Payments Agency, an Executive Agency of Defra, in relation to payments under a wide range of schemes that fall within the EU's Common Agricultural Policy. The majority of appeals which are considered by the Panel concern the Single Payment Scheme under which the Agency pays around £1.7 billion a year to over 100,000 farmers in England. Stakeholders value the service the Panel offers. In particular, it is the role of individual Panel members with practical experience of agriculture that is seen as of most importance. Farmer customers clearly welcome the opportunity to have their case reviewed by a panel consisting of people from similar backgrounds who understand the issues they face, but they have identified scope for improvements in the way it functions.

1.3 The Rural Payments Agency has customer focus and performance at the heart of its business model. The Agency has recently reinvigorated its Customer Charter to that effect and has ambitions to increasingly get things right first time, reduce the number of customer complaints and deal with any such complaints in such a way as to minimise the need for appeals to the Panel. They have launched a project to re-engineer the way in which they handle complaints and appeals. This pre-dated both this review and the recent Parliamentary Ombudsman's report "More Cold Comfort", published in November 2011. The project will pick up recommendations from that report and this review.

1.4 The key improvements sought by customers concern the length of time taken by the appeal process itself and also the time to respond to agreed Panel recommendations. There are other aspects to the process which could be improved which concern clarity of the published guidance for making complaints and an appeal, the technical support available to the Panel, as well as a perceived lack of transparency where appeals are not upheld. Many of these potential areas for improvement have little to do with the actual functions of the Panel itself, but are integral to ensuring that the role of the Panel is and is seen to be of maximum value. In the interests of furthering the objective of continuous improvement, the report therefore includes recommendations covering these aspects. As well, it makes a recommendation to Defra to further empower the Agency in facilitating the use of Ex Gratia payments where this is appropriate.

1.5 In exploring the needs of customers in relation to appeals, it is apparent that customers and the Agency can encounter a need for greater legal certainty around both

the requirements of the governing European legislation and the way in which that is interpreted. The Panel is not best placed to answer such questions and going through the entire appeals process can simply add delay before a more appropriate course is taken, such as seeking Judicial Review. It is recommended that further consideration be given to possible alternative mechanisms where there is legal doubt; by earlier referral to Judicial Review and/or the potential for utilising the First-Tier Tribunal Service.

1.6 Having concluded that the Panel should remain in operation for the next 3 years, this review examined the effectiveness of the governance arrangements overseeing the Panel. The review makes a number of recommendations in this area. The activities of the Panel are overseen by the Agency. Many members of the Panel have served since the Panel was established and succession planning needs to be enhanced, supported by structured induction. There is scope for improving the way in which lessons can be learned from the complaints and appeals process to further enhance the quality of service delivery.

Introduction and Purpose of the Review

2.1 The Coalition Programme for Government included a commitment to “reduce the number and cost of quangos”. A review of the then existing arm’s length bodies in 2011 resulted in a number of public bodies being identified for abolition, merger or other change. The Public Bodies Act 2011, which received Royal Assent on 15 December 2011, enables those changes requiring legislation. The Department for Environment, Food and Rural Affairs (Defra) is progressively reducing the number of its Non-Departmental Public Bodies (NDPBs) from over 90 to less than 40 as a result of the initial review.

2.2 A rolling programme of triennial reviews has been adopted as a means of challenge and ensuring continuous improvement in those public bodies which remain. The way in which reviews are carried out is governed by the Cabinet Office Guidance on Reviews of Non-Departmental Public Bodies. The principle aim is to test the continuing need for an individual body, looking at both its functions and the form the body takes. Should the body be recommended for retention, a second stage involves examining the control and governance arrangements in place to ensure compliance with recognised principles of good corporate governance. It is Government policy that NDPBs should only be set up, and remain in existence, where the NDPB model can be clearly evidenced as the most appropriate and cost-effective way of delivering the function in question.

2.3 This is the first Triennial Review undertaken by Defra. The Independent Agricultural Appeals Panel is classified as an Advisory NDPB. It is low cost and has limited functions. As such it is one of the less complex organisations to be reviewed and was chosen to pilot the review process for that reason. It was also undertaken in order for the review to run in parallel with RPA’s own work on complaints procedures. Annex A gives the Terms of Reference for the review. Annex B lists stakeholders who contributed views to the review. The Environment, Food and Rural Affairs Select Committee were written to at the outset of the review along with other key stakeholders and a press notice attracted some media

coverage in the farming press. All stakeholders were invited to submit written views through a dedicated email address. Where appropriate, submitted written evidence was supplemented by interview as well as input through existing stakeholder structures.

Independent Agricultural Appeals Panel

3.1 The Independent Agricultural Appeals Panel (IAAP) is an Advisory NDPB. There is no EU requirement to have such a body, but it was set up in 2002 in response to a recommendation from a red-tape review in order to provide independent expert advice to Ministers on an ongoing basis. It is a formal, standing (lifespan of at least 2 years) body with a defined remit, membership and terms of reference. Appointments to the Panel are made by Ministers in line with the Commissioner for Public Appointment's Code of Practice. Those appointed are drawn from outside Government and appointed in a personal capacity because of their skills and experience. The body does not employ its own staff but are supported by civil servants from the Rural Payments Agency, an Executive Agency of Defra. The body does not incur expenditure on its own account, nor prepare separate accounts. Instead, the body is accounted for through the accounts of the sponsoring organisation. Ministers are answerable to Parliament for the body and have the power to wind it up or determine its continued existence.

3.2 The Panel provides an avenue for appeals against any decision the Rural Payments Agency makes in respect of the schemes it administers under the EU Common Agricultural Policy. For legal purposes, these are divided into those schemes covered by the Integrated Administration and Control System (IACS), by far the most significant of which is the Single Payment Scheme (SPS), and those which are not. The latter are mainly schemes aimed at managing agricultural markets, with any payments generally made to processors and traders rather than direct to farmers. Guidance on the appeals mechanism and how to appeal is published on the Agency's website at www.rpa.gov.uk. Consideration by the Panel is the third stage in a linked process. At the pre-appeal stage, customers make a written complaint which the Agency seeks to respond to within 15 days. Within 60 days of receipt of the response, the complainant may continue to pursue their case by completing a Stage 1 Appeal Form (SP6). The Agency's Customer Relations Unit will review the case and aim to communicate their decision within 90 days of receipt of the appeal. Customers may then opt to take their case to Stage 2 and have the issue considered by the Panel. Again, within 60 days of receipt of the response to the Stage 1 appeal, the customer completes a Stage 2 Appeal Form (SP7) and submits it together with payment of £100 (refundable if the appeal is fully or partially upheld) to the Agency's Customer Relations Unit. Statutory Instruments (SI 39/2010 for the SPS and SI 590/2004 for non-IACS schemes) provide the legal powers to set the £100 access fee.

3.3 The Agency considers any new information submitted with the Stage 2 application and may change their earlier decision or proceed to refer the case to the Panel. The customer is provided with a Case Summary for comment prior to submission to the Panel. The Panel of three members is drawn from the pool of Panel Members appointed by

Ministers on behalf of the Secretary of State. The full list of Panel Members is published on the Agency's website. Members have experience of the agriculture industry and will typically include farmers, land agents and surveyors. Every effort is made to avoid potential conflicts of interest in establishing a Panel. The role of the Panel is to establish the facts that support the appeal and to consider whether the Agency has correctly applied the legislation and its published scheme rules. Should the customer wish to put their case in person, an Oral Hearing will be arranged. In considering the appeal, the Panel is supported by a Panel Secretary, provided by the Agency, and may call upon technical and legal expertise as necessary. The Agency's declared aim is to send the Panel's recommendation to Ministers within 60 days of receipt of the Stage 2 Appeal.

3.4 In the event that the appeal is not upheld, the customer still has recourse to challenging the decision through the courts. Where the customer feels their claim and/or complaint has been mishandled by RPA, they also have the option, whatever the outcome of the appeal, to raise their case, via their Member of Parliament, with the Parliamentary Ombudsman.

3.5 The costs of operating the appeal mechanism are borne by the Rural Payments Agency. Panel Members are paid a daily rate, together with expenses. It is estimated that the direct cost amounts to approximately £34,000 annually. To this must be added the marginal cost of the secretarial function, less than one full time equivalent member of staff. Given that the appeal mechanism concerns payment functions involving in excess of £2billion per year, the overhead is marginal and represents extremely good value.

Findings from the Review

4.1 The function and contribution of the Panel to the achievement of policy objectives has to be seen in the context of the overall functions of the Rural Payment Agency. The role of the Panel is integral to the Agency's customer service objectives. The appeals mechanism is a link in the service chain. Customers must initiate a complaint in the event of unsatisfactory service or being subject to a decision with which they disagree. Formal complaints reported run at just over 1,000 annually. Over 90% of these relate to the Single Payment Scheme. Initially these are considered by the operational business unit. Should the issue persist, there is a two stage process of appeals. Stage 1 involves an internal review by the RPA Customer Relations Team. Of the 300 or so cases reaching this stage, 30% were upheld or partially upheld in 2010-11. If a customer is still not satisfied with the outcome they can take the case to Stage 2 where the Panel comes into play. One third of cases taken to appeal reach this stage and in 2010-11, of the cases completed within that time period, 50% were upheld. The outcomes observed from the appeal process since it was set up in 2002 clearly illustrate the current need for a mechanism of this kind to continue. A summary of the annual level of appeals and their progress is at Annex C to this report.

4.2 All the evidence provided by stakeholders supports the need for an appeals mechanism in relation to CAP schemes and in particular the application of the Single Payment Scheme (SPS). Both representative bodies of customers and Panel members have pointed to a continuation of the Independent Agricultural Appeals Panel as being essential to the operation of SPS. It is the fact that the Panel is made up of individuals who are independent of the Rural Payments Agency and Government that “gives the Panel credibility” and the independence is valued for that reason. The Panel is seen as playing a key role in establishing facts and the oral hearings have been helpful in teasing out aspects that may have been overlooked in the written appeal. A number of areas for improvement have been identified by respondents contributing to the review, but there is a clear shared view that the Panel should continue.

Recommendation 1: The Independent Agricultural Appeals Panel should be retained given the value that customers place on its role and the value for money the current arrangements represent.

4.3 During the course of the review, it has been noted that activity increases during periods of change, for instance when the SPS was first introduced. It is to be expected that complaints and appeals will increase, albeit for a short period, in the event that processes alter. CAP reform is likely to generate misunderstandings and mistakes as both customers and the Agency get used to the revised scheme rules.

Recommendation 2: The Panel should remain responsible for consideration of Single Payment Scheme appeals until at least the next triennial review in 2015.

Recommendation 3: In anticipation of a potential increase in the volume of cases as a result of changes flowing from CAP reform, the number of Panel members in the pool should be reviewed and increased in advance of the 2014 scheme year.

4.4 Although SPS currently accounts for 90% of the case load, non-IACS schemes continue to generate a low number of highly complex cases which can have major cost implications for customers. A number of recent cases have related to the position of Producer Organisations under the Fruit and Vegetables Aid Scheme where the Agency, customers and the Department are faced with uncertainties in the application of the governing European legislation. Panel members and other stakeholders have commented that the nature of the Panel and the skills and expertise of members are less suited to advising on what are essentially questions of law. Consideration of such issues tends to be inconclusive or result in an alternative resolution procedure such as Judicial Review.

Recommendation 4: The Agency and Defra should explore further the potential to transfer non-IACS appeals to the First-Tier Tribunal. The importance of legal clarity has also featured in cases relating to environmental agreements on common land.

Recommendation 5: Should an SPS related issue be clearly identified as involving legal issues which lead to uncertainties of interpretation such that Defra concludes that Judicial Review is a likely end point, the appeal process should be amended to

allow early recourse to that route by mutual agreement and without the necessity of exhausting the entire appeal process.

4.5 Having concluded that the Panel should continue, the support of stakeholders has been tempered by a wish for some improvements in the mode of operation. The Rural Payments Agency shares this view and even before this review had established a project to re-engineer its entire complaints and appeals procedure. The scope of the project is already fairly comprehensive. The reviewer has received an assurance in principle that the findings from this review will be incorporated into that project. The remit of the Panel is to determine whether the scheme legislation and the Agency's policies and procedures have been correctly applied in the appellant's case. This is not always understood by appellants, particularly if they are seeking to challenge the scheme rules themselves or the governing policy. In addition, the published guidance is seen by some as potentially misleading, for example, in relation to issues of maladministration.

Recommendation 6: A working group should be established to revise the current guidance and improve its accessibility and usefulness. The group should include representatives of both customers and panel members and make full use of customer insight in recasting the existing guidance.

4.6 The length of time it can take to complete the various stages of the appeal process and to resolve the situation following a successful appeal is a matter of concern. There are clearly instances, not that uncommon, where the timetable identified in the agency's own guidance has not been adhered to.

Recommendation 7: The Agency should commit itself to the timetable currently included in the appeals guidance as part of its Customer Charter and ensure that resources and processes are put in place to meet that timetable. Systems should be put in place to monitor and report on progress and performance against those standards.

It is clear that there is a determination on the part of senior management in the Agency to continue to build on recent improvements in performance in managing CAP schemes, particularly the speed of SPS payments. Where a complaint is made, the focus will increasingly be on finding a resolution at that stage and minimising the need for appeals. To facilitate that and also to aid clearance of the Stage 1 internal appeals, the Agency has identified the benefit of identifying and being able to provide redress promptly, including ex-gratia payments where appropriate, at an early stage. Together with the Department, every effort should be made to streamline and accelerate payments where these are agreed following appeal.

Recommendation 8: The Department should seek to provide the Chief Executive of the Rural Payments Agency with delegated authority to make Ex Gratia payments of up to £1,000 in individual cases where appropriate, and even before these come to appeal. In addition, the Department should give priority to clearance of all agreed financial remedies following a successful appeal.

4.7 Panel members have made a range of comments on the role of the secretariat and the support from expert witnesses of the Agency. Some inconsistency has been noted in the quality of the supporting brief available to the Panel. The precise role of the panel secretary is unclear, but is regarded as important in checking facts and identifying sources of expertise when it comes to expert witnesses called to provide input on technical or legal aspects of the appeal.

Recommendation 9: In parallel with the review of guidance, stakeholders and panel representatives should be consulted in clarifying the role of the panel secretary, expert technical and legal advisors, as well as the format of reporting the Panel's findings to the Minister.

4.8 In general, the advice given to Ministers on individual appeals is upheld. The Panel's advice may be supplemented by further information from both the Agency and from the relevant Departmental policy team. Where the ultimate decision runs contrary to the advice from the Panel, stakeholders have pointed to a lack of transparency and feel that the reasoning should be clearly communicated to the appellant. Regardless of the final decision, there is a learning opportunity for the Agency and Panel members in being aware of the outcome of appeals.

Recommendation 10: The results of an appeal, successful, partially successful or rejected, should be communicated to the appellant on completion of the process. Where an appeal is partially upheld or rejected, the reasons for that decision should be explained. Summaries of all appeal findings should be made available to all Panel members and be reviewed by the relevant policy and Agency operational units to enable guidance and standing process instructions to be updated.

Assessment of Alternative Delivery Models

5.1 A requirement of the triennial review process is to evidence an assessment of alternative delivery models. In doing so, the reviewer has taken full account of the clear view of stakeholders, external and internal, as well as the marginal cost involved in Panel operations. All options have been considered as follows:

Abolition: All stakeholders favour retention of the Panel. Although there is no legal requirement to have an appeals process involving an independent advisory body, an appeals mechanism is desirable where decisions of an Executive Agency of the Department can have major implications for business and individuals. The majority of appellants are SMEs or sole traders. Access to scheme payments has a significant impact on incomes and cash flow, with make or break implications for many businesses. An appeals mechanism is appropriate in these circumstances where the only alternatives rest with the courts and/or the Ombudsman.

Move out of central government: European legislation governs the operation of the schemes subject to appeal by the Panel. As such, there is a legal obligation on

government to comply and any errors in administration result in penalties through disallowance falling on the Exchequer. These are responsibilities that do not lend themselves to a voluntary sector model. Although local government has a role in monitoring aspects of customer compliance with a small proportion of scheme rules, this does not cover the full remit and in the interest of consistency, it would not be appropriate to operate other than at national level.

In house delivery: Bringing the appeals function in house would undermine the valued independence of the Panel.

Merge with another body: Currently any newly created appeals rights should, as a matter of Government policy, be the responsibility of the First-tier Tribunal administered by the Ministry of Justice. This brings together in a single judicial body the tribunal jurisdictions for appeals against the decisions of most central government bodies. The review recommends consideration in the short term of this route for non-IACS appeals and identifies the First-tier Tribunal as a potential provider of all CAP scheme appeals, subject to progress in reducing the number and scope of appeals to those of a more legal nature.

Deliver by a new Executive Agency: The Panel is the appeal body for decisions taken by the Rural Payments Agency, itself an Executive Agency. Similar considerations apply as for bringing appeals in house.

Continue to be delivered by an NDPB: This remains the favoured option, certainly for the Single Payment Scheme. The Panel is a low cost and effective mechanism, valued by stakeholders. Government has set “three tests” for each of the functions of Non-Departmental Public Bodies. These are:

- Is this a technical function which needs external expertise to deliver?
- Is this a function which needs to be, and be seen to be, delivered with absolute political impartiality?
- Is this a function which needs to be delivered independently of Ministers to establish facts and/or figures with integrity?

Although a significant amount of expertise is needed to understand the requirements of the schemes, the role of the Panel is not primarily a technical function. The appeals process is a function which needs to be delivered with absolute political impartiality in order to retain customer confidence. The independent establishment of facts is the main function of the Panel in providing advice to Ministers on the validity of decisions taken by an arm of government.

Control and Governance

6.1 Having concluded that the Independent Agricultural Appeals Panel should remain as an advisory NDPB, the second stage of the triennial review process involves an assessment of performance against the principles of good corporate governance. The nature of the Panel lends itself to light touch and flexible governance arrangements, as does the need to keep operating costs to a minimum consistent with the provision of an effective and respected appeals mechanism. The assessment is summarised below. Annex D gives further details.

6.2 **Accountability:** The Panel is an advisory body consisting of a pool of individuals who are appointed by the Secretary of State for Environment, Food and Rural Affairs in accordance with the Code of Practice on Public Appointments. The terms of reference for Panel Members are to consider written or oral appeals made by the appellants or their representatives in the light of the governing scheme legislation and to reach a decision on the basis of the facts, impartially and without discrimination or bias. The Panel addresses its findings to Ministers who decide whether or not to accept the Panel's recommendation. The Panel, unlike most advisory NDPBs, do not meet as a group nor is there a Chair. There are no regular meetings between Ministers and Panel Members as business matters are conducted through correspondence. Activities of the Panel are reported through the Annual Report of the Rural Payments Agency. Accountability for the use of public money by the body is exercised by the Chief Executive of the Rural Payments Agency. The Panel is compliant with the Freedom of Information Act 2000 and has a Publication Scheme (published on the RPA's website). The IAAP is a single remit body which does not have policy responsibilities and does not engage in lobbying.

6.3 **Role of Members:** Appointments are made for a three-year term with the possibility of renewal after that period to a maximum of 10 years. The Secretary of State may remove individuals whose performance or conduct is unsatisfactory. Members conduct is governed by the Code of Practice for Board Members of Public Bodies. Members are recruited from a diverse range of backgrounds from within the industry. Members serve on one or more panels of three to consider individual appeals as required. Demand on a Panel member's time is highly variable. Members are remunerated at a daily rate together with a preparation fee paid in respect of each sitting. In addition, panel members receive travel and subsistence at standard Departmental rates. Potential conflicts of interest are addressed on a case by case basis. Where a Member identifies a conflict of interest with a particular case then another Panel Member is assigned instead.

6.4 **Role of the Department:** The Secretary of State is ultimately accountable to Parliament and the public for the overall performance of the Panel. On the introduction of the Panel, it was decided that support to Panel members was best provided by those closest to accountability for the schemes themselves, having the expert knowledge immediately available and able to address system issues and the interpretation of the EU requirements revealed by individual cases dealt with by the Panel. Management and

support of the caseload is therefore exercised by the RPA. Secretariat services are provided to the Panel by the RPA Customer Relations Unit. There would be no added value from bringing this aspect into the Department and operating with the more usual sponsor team arrangements. Nevertheless, the normal requirements of transparency, accountability and responsiveness apply and are met.

6.5 The reviewer was unable to identify mechanisms for regular reporting on performance of the Panel. It was unclear how new members were inducted into the process and what mechanisms exist to keep members up to date with new developments, including lessons learned from individual Panel hearings. This absence of a feedback loop between findings of the Panel and the processes and procedures operated by the Agency is a weakness. Many Panel members have served since it was established and will have completed the maximum 10 years allowable. A great deal of experience and expertise could be lost as a result.

Recommendation 11: Consideration should be given to quarterly reporting on the activities of the Panel through the Rural Payments Agency Oversight Board, chaired by the Minister of State. This would give greater visibility to the contribution and performance of the Panel in driving improved customer service under the complaints and appeals mechanisms operated by the Agency. An important aspect of the report concerns the lessons to be learned from cases considered and, where appropriate, how these have been reflected in revised procedures, guidance, etc. Responsibility for this might be invested in the Agency's Customer Director.

Recommendation 12: The Agency should introduce a more robust forecast of demand for the Panel and establish a management plan for the NDPB, covering for example, succession planning for refreshing the membership, a structured induction process, maintaining a register of Members interests and performance assessment of individuals. Members could be supported by a mentoring structure using the skills and experience of outgoing members.

Cost of the Review

7.1 This review was undertaken by Richard Gregg (Defra, Deputy Director), supported by Andrew Tessier (Executive Officer) to whom the reviewer extends his thanks. The estimated total staff cost is £4,500. No additional expenses were incurred.

Conclusion and Summary of Recommendations

8.1 It is clear from the responses received from stakeholders that the Independent Agricultural Appeals Panel is greatly valued for the service it provides. Panel members are committed to their responsibilities. It is thanks to their willingness to participate that the final stage of the appeals process tends to work as well as it does. It is the face to face discussion with peers that helps elicit information supporting the facts and a general recognition of a fair hearing, even when the outcome might not be what the appellant was hoping for at the outset. There is room for improvement in the processes supporting the activities of the Panel. It is reassuring that the Rural Payments Agency has already embarked on an improvement project addressing the entire complaints and appeals area. That is picking up recommendations from the Ombudsman's report "Cold Comfort" and the reviewer has been assured that the recommendations in this report will be addressed in the same way.

8.2 Thanks go to all who contributed to the review. A list of those who engaged is annexed to this report. A particular tribute should be paid to the members of the Independent Agricultural Appeals Panel, notably many who have served for 10 years are now coming to the end of their service. The Panel will remain an important component in the effective delivery of CAP schemes for the next 3 years and which are likely to see significant changes resulting from CAP reform.

Recommendations

Recommendation 1: The Independent Agricultural Appeals Panel should be retained given the value that customers place on its role and the value for money the current arrangements represent.

Recommendation 2: The Panel should remain responsible for consideration of Single Payment Scheme appeals until at least the next triennial review in 2015.

Recommendation 3: In anticipation of a potential increase in the volume of cases as a result of changes flowing from CAP reform, the number of Panel members in the pool should be reviewed and increased in advance of the 2014 scheme year.

Recommendation 4: The Agency and Defra should explore further the potential to transfer non-IACS appeals to the First-Tier Tribunal.

Recommendation 5: Should an SPS related issue be clearly identified as involving legal issues which lead to uncertainties of interpretation such that Defra concludes that Judicial Review is a likely end point, the appeal process should be amended to allow early recourse to that route by mutual agreement and without the necessity of exhausting the entire appeal process.

Recommendation 6: A working group should be established to revise the current guidance and improve its accessibility and usefulness. The group should include representatives of both customers and panel members and make full use of customer insight in recasting the existing guidance.

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Recommendation 9: In parallel with the review of guidance, stakeholders and panel representatives should be consulted in clarifying the role of the panel secretary, expert technical and legal advisors, as well as the format of reporting the Panel's findings to the Minister.

Recommendation 10: The results of an appeal, successful, partially successful or rejected, should be communicated to the appellant on completion of the process. Where an appeal is partially upheld or rejected, the reasons for that decision should be explained. Summaries of all appeal findings should be made available to all Panel members and be reviewed by the relevant policy and Agency operational units to enable guidance and standing process instructions to be updated.

Recommendation 11: Consideration should be given to quarterly reporting on the activities of the Panel through the Rural Payments Agency Oversight Board, chaired by the Minister of State. This would give greater visibility to the contribution and performance of the Panel in driving improved customer service under the complaints and appeals mechanisms operated by the Agency. An important aspect of the report concerns the lessons to be learned from cases considered and, where appropriate, how these have been reflected in revised policies, guidance, etc. Responsibility for this might be invested in the Agency's Customer Director.

Recommendation 12: The Agency should introduce a more robust forecast of demand for the Panel and establish a management plan for the NDPB, covering for example, succession planning for refreshing the membership, a structured induction process, maintaining a register of Members interests and performance assessment of individuals. Members could be supported by a mentoring structure using the skills and experience of outgoing members.

Annex A: Terms of Reference

REVIEW OF THE INDEPENDENT AGRICULTURAL APPEALS PANEL, AN ADVISORY NDPB SPONSORED BY DEFRA

Terms of reference

1. To review the functions of the Independent Agricultural Appeals Panel (IAAP) in providing an independent appeals mechanism for the Single Payments Scheme and other CAP schemes administered by the Rural Payments Agency (RPA), in accord with Government guidelines for reviewing Non-Departmental Public Bodies.
2. To consider the effectiveness of how the functions are currently delivered, whether there is a continuing need for the function and how it might best be delivered in future. In doing this the review will identify and consider alternative delivery options and compare these with the existing operating model.
3. Issues to look at should include:
 - The role the panels play within the context of the RPA's appeals and complaints procedures;
 - Effectiveness of the panels, including timeliness and costs, in meeting the needs of appellants, RPA and Ministers
 - Any ongoing work or planned work by RPA to improve the efficiency and effectiveness of delivering the function
 - The structure and membership of the appeals panel and how secretarial support is provided
 - Impact on accountability and Ministerial responsibility
 - Best practice deployed by other appeals mechanisms eg services operated by HM Court and Tribunal Services
4. The review will make recommendations to Defra Ministers based on analysis of the issues covered in paras 1- 3. In considering alternative options the review should outline the cost/benefit analysis for the options, including likely transition costs and resources and when would be the optimum time for change. If recommendations are to retain the existing model, then the review should identify any aspects where delivery can be improved.

Timing and costs

5. The review will start on 12 December and will report by early February 2012 on the First Stage of the review. The costs of the review are expected to be monitored and reported.

Governance

6. The review is conducted on behalf of the Secretary of State and will be overseen by the Minister for Agriculture and Food and the Defra Management Committee.

Conduct of the Review

7. The review will take account of any recent reviews and studies involving the IAAP but not be constrained by their recommendations. The reviewer will consult with relevant officials in the Rural Payments Agency, Defra, key customer representative organisations, and other parties as they see fit. The review will also take account of any views expressed by the Efra Select Committee and the Parliamentary Ombudsman.

Annex B: List of contributing stakeholders

National Farmers Union

British Institute of Agricultural Consultants

Central Association of Agricultural Valuers

John Edge (Panel Member)

Edward Perrott, Taylor Vinters, Cambridge

Aidan Robertson QC and Sarah Abram, Brick Court Chambers, London

Jim Reed (Panel Member)

Gwen Harrison, Parliamentary and Health Service Ombudsman

Martin Lea (Panel Member)

Ros Gough (Panel Member)

David Papworth (Panel Member)

A Peart

Martin Truran (Defra, Legal)

Andrew Bayes (Defra, DTUS)

Rural Payments Agency Management Board

Justin Chamberlain (RPA Customer Director)

Stephen Briggs (RPA)

Sharon Ellis (RPA)

Mark Grimshaw (RPA Chief Executive)

RPA Technical Stakeholders Forum

Trevor Latus (RPA)

Sarah Hendry (Defra)

John O’Gorman (Defra)

John Roberts (Defra)

Jackie Clayton (Defra)

Jim Paice MP, Minister of State for Agriculture and Food

Annex C: Annual Summary of Appeals

(Source: Rural Payments Agency Annual Reports)

2010-2011 Appeals

Stage 1 Appeals	Number of Appeals (Withdrawn)	Unresolved (Appeals in progress)	Resolved (Appeal completed)	Successful (Appeal upheld)	Partially successful (Appeal partially upheld)	Unsuccessful (Appeal rejected)
Single Payment Scheme	291 (2)	69	220	53	8	159
Other schemes	15 (0)	6	9	0	1	8
Stage 2 Appeals						
Single Payment Scheme	110 (3)	66	41	22	0	19
Other schemes	10 (0)	8	2	0	0	2

2009-2010 Appeals

Stage 1 Appeals	Number of Appeals (Withdrawn)	Unresolved (Appeals in progress)	Resolved (Appeal completed)	Successful (Appeal upheld)	Partially successful (Appeal partially upheld)	Unsuccessful (Appeal rejected)
Single Payment Scheme	418 (7)	177	234	55	10	169
Other schemes	4	2	2	1	0	1
Stage 2 Appeals						
Single Payment Scheme	115 (7)	70	38	0	0	38
Other schemes	1	1	0	0	0	0

2008-2009 Appeals

Stage 1 Appeals	Number of Appeals (Withdrawn)	Unresolved (Appeals in progress)	Resolved (Appeal completed)	Successful (Appeal upheld)	Partially successful (Appeal partially upheld)	Unsuccessful (Appeal rejected)
Single Payment Scheme	432 (10)	131	291	46	17	228
Other schemes	5	1	4	1	0	3
Stage 2 Appeals						
Single Payment Scheme	145 (1)	76	68	4	0	64
Other schemes	2	1	1	0	0	1

2007-2008 Appeals

Stage 1 Appeals	Number of Appeals (Withdrawn)	Unresolved (Appeals in progress)	Resolved (Appeal completed)	Successful (Appeal upheld)	Partially successful (Appeal partially upheld)	Unsuccessful (Appeal rejected)
Single Payment Scheme	505 (20)	255	230	89	8	133
Other schemes	12 (1)	1	10	3	1	6
Stage 2 Appeals						
Single Payment Scheme	119 (5)	52	62	3	0	59
Other schemes	12	2	10	0	0	10

2006-2007 Appeals

Stage 1 Appeals	Number of Appeals (Withdrawn)	Unresolved (Appeals in progress)	Resolved (Appeal completed)	Successful (Appeal upheld)	Partially successful (Appeal partially upheld)	Unsuccessful (Appeal rejected)
Single Payment Scheme	608 (14)	151	443	148	6	275
Other schemes	20	13	7	2	0	5
Stage 2 Appeals						
Single Payment Scheme	108 (7)	50	51	3	0	41
Other schemes	10	9	1	0	0	1

2005-2006 Appeals

Stage 1 Appeals	Number of Appeals (Withdrawn)	Unresolved (Appeals in progress)	Resolved (Appeal completed)	Successful (Appeal upheld)	Partially successful (Appeal partially upheld)	Unsuccessful (Appeal rejected)
Single Payment Scheme	291	2	289	64	21	204
Other schemes	62	33	29	9	3	17
Stage 2 Appeals						
Single Payment Scheme	94	10	84	10	4	70
Other schemes	48	0	48	9	9	30

2004-2005 Appeals

Stage 1 Appeals	Number of Appeals (withdrawn)	Unresolved (Appeals in progress)	Resolved (Appeal completed)	Successful (Appeal upheld)	Partially Successful (Appeal partially upheld)	Unsuccessful (Appeal rejected)
IACS including Single Payment & Moorland Line*	322*	234	88	34	5	49
Other schemes**	4	1	3	1	0	2
Stage 2 Appeals						
IACS	23	5	18	0	0	18
Other schemes	1	0	0	0	0	1

*Single Payment (72) and Single Payment Moorland Line (174) Appeal Procedures in England introduced on 10 November 2004, in addition to the existing IACS (76) Appeal Procedure.

**CAP Non-IACS Support Schemes Appeals Procedure introduced on 1 April 2004 on a UK basis.

Additional 28 Panel Members recruited to deal with anticipated increase in appeals arising from implementation of the Single Payment Scheme.

2003- 2004 Appeals

Stage 1 Appeals	Number of Appeals (withdrawn)	Unresolved (Appeals in progress)	Resolved (Appeal completed)	Successful (Appeal upheld)	Partially Successful (Appeal partially upheld)	Unsuccessful (Appeal rejected)
IACS	90	11	79	17	4	58
Stage 2 Appeals						
IACS	16	0	16	3	1	12

2002- 2003 Appeals

Stage 1 Appeals **	Number of Appeals (withdrawn)	Unresolved (Appeals in progress)	Resolved (Appeal completed)	Successful (Appeal upheld)	Partially Successful (Appeal partially upheld)	Unsuccessful (Appeal rejected)
IACS*	50	12	38	6	10	32
Stage 2 Appeals						
IACS*	5	0	5	1	0	4

*IACS (Integrated Agricultural Controls System) Appeals Procedure in England established on 1 April 2002

**Stage 1 is an internal review by the Customer Relations Unit (CRU) of the Rural Payments Agency. Stage 2 appeals are heard by a panel of 3 independent Panel Members drawn from a pool of 16 members with findings addressed to the Minister for decision.

Annex D: Principles of Corporate Governance

Assessment of IAAP

Principles of corporate governance for advisory NDPBs	Description	Assessment of IAAP
ACCOUNTABILITY		
Principle	The Minister is ultimately accountable to Parliament and the public for the overall performance, and continued existence, of the public body	The Panel is an advisory body consisting of a pool of individuals who are appointed by the Secretary of State for Environment, Food and Rural Affairs in accordance with the Code of Practice on Public Appointments. The Secretary of State is accountable to Parliament and the public for the overall performance of the Panel.
Supporting Provisions	The Minister and sponsoring department should exercise appropriate scrutiny and oversight of the public body. This includes oversight of any public monies spent by, or on behalf of, the body.	The Minister of State for Agriculture and Food has day to day responsibility for the IAAP. Activities of the Panel are reported through the Annual Report of the Rural Payments Agency. Accountability for the use of public money by the body is exercised by the Chief Executive of the Rural Payments Agency. The IAAP is a single remit body which does not have policy responsibilities and does not engage in lobbying. Recommendation 11 addresses how scrutiny of the IAAP could be improved.
	Appointments to the board should be made in line with any statutory requirements and, where appropriate, with the <i>Code of Practice</i> issued by the Commissioner for Public Appointments.	Appointments are made for a three-year term with the possibility of renewal after that period to a maximum of 10 years.
	The Minister will normally appoint the Chair and all board members of the public body and be able to remove individuals whose performance or conduct is unsatisfactory.	The Secretary of State may remove individuals whose performance or conduct is unsatisfactory.

	The Minister should meet the Chair on a regular basis.	Not applicable. The Panel, unlike most advisory NDPBs, do not meet as a group nor is there a Chair. There are no regular meetings between Ministers and Panel Members as business matters are conducted through correspondence.
	There should be a requirement to inform Parliament and the public of the work of the public body through publication of an annual report (or equivalent publication).	Activities of the Panel are reported through the Annual Report of the Rural Payments Agency.
	The public body must be compliant with Data Protection legislation.	The Panel is compliant with Data Protection legislation.
	The public body should be subject to the Public Records Acts 1958 and 1967	IAAP operates within a Publication Scheme (published on the RPA's website).
ROLES AND RESPONSIBILTIES		
Role of the Sponsoring Department		
Principles	<p>The departmental board ensures that there are appropriate governance arrangements in place with the public body.</p> <p>There is a sponsor team within the department that provides appropriate oversight and scrutiny of, and support and assistance to, the public body.</p>	<p>The Panel is an integral part of RPA's complaints and appeals mechanism so management responsibility for the NDPB sits with the RPA Chief Executive eg ensuring that the Panel carries out its business efficiently and effectively and that members take into account any general guidance from Ministers, in considering individual appeals.</p> <p>Management and support of the caseload is exercised by the RPA. Secretariat services are provided to the Panel by the RPA Customer Relations Unit.</p> <p>Recommendation 12 addresses where aspects of IAAP's governance could be improved.</p>
Supporting Provisions	The departmental board's regular agenda should include scrutiny of the performance of the public body.	The reviewer was unable to identify mechanisms for regular reporting on performance of the Panel. Recommendation 11 refers.

	There should be a document in place which sets out clearly the terms of reference of the public body. It should be accessible and understood by the sponsoring department and by all board members. It should be regularly reviewed and updated.	Terms of reference for the IAAP are published on the RPA's website and explained to members in their letters of appointment.
	There should be a dedicated sponsor team within the parent department. The role of the sponsor team should be clearly defined.	Secretariat services are provided to the Panel by the RPA Customer Relations Unit. The role of the secretariat could be more clearly defined. Recommendation 9 refers. The Single Payment System Policy Team in Core Defra provides policy sponsorship for the body.
	There should be regular and ongoing dialogue between the sponsoring department and the public body.	The RPA Customer Relations Unit are in regular contact with Panel Members.
	There should be an annual evaluation of the performance of the board and its committees – and of the Chair and individual board members.	The reviewer was unable to identify mechanisms for annual evaluation of panel members. Recommendation 12 refers.
Role of the Chair		
Principle	The Chair is responsible for leadership of the board and ensuring its overall effectiveness	Not applicable as the Panel does not have a Chair – some responsibilities that a Chair would normally have are undertaken by the RPA Chief Executive as necessary.
Role of Board Members		
Principle	Board members should provide independent, expert advice.	IAAP Members are appointed through open competition, in a personal capacity because of their skills and experience in the farming industry. The Panel is seen as playing a key role in establishing facts and the oral hearings have been helpful in teasing out aspects that may have been overlooked in the written appeal.
Supporting provisions	There should be a formal, rigorous and transparent process for the appointment	Appointments are made in line with the Code of Practice for Ministerial Appointments.

	of non-executive members of the board. This should be compliant with the <i>Code of Practice</i> issued by the Commissioner for Public Appointments	
	Board members should be properly independent of the Department and of any vested interest (unless serving in an ex-officio or representative capacity).	See above
	Board members should be drawn from a wide range of diverse backgrounds. The board as a whole should have an appropriate balance of skills, experience, independence and knowledge.	Members are recruited from a diverse range of backgrounds from within the industry.
	The duties, role and responsibilities, terms of office and remuneration of board 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.	These are set out in a Member's letter of appointment. Members are remunerated at a daily rate together with a preparation fee paid in respect of each sitting.
	All board members must allocate sufficient time to the board to discharge their responsibilities effectively.	Panel Members are very committed and undertake their responsibilities seriously. Demand on a Member's time is highly variable.
	There should be a proper induction process for new board members. This should be led by the Chair. There should be regular reviews by the Chair of individual members' training and development needs.	The reviewer found it was unclear how new members were inducted into the process and what mechanisms exist to keep members up to date with new developments, including lessons learned from individual Panel hearings. Recommendation 11 refers.
	All board members should ensure that high standards of corporate governance are observed at all times. This	The normal requirements of transparency, accountability and responsiveness apply and are met. The body does not employ its own staff but are supported by civil

	should include ensuring that the public body operates in an open, accountable and responsive way.	servants from the Rural Payments Agency, an Executive Agency of Defra. The body does not incur expenditure on its own account, nor prepare separate accounts. Instead, the body is accounted for through the accounts of the sponsoring organisation.
COMMUNICATIONS		
Principle	The Public Body should be open, transparent, accountable and responsive.	See Accountability section above
Supporting provisions	The public body should operate in line with the statutory requirements and spirit of the Freedom of Information Act 2000.	The Panel is compliant with the Freedom of Information Act 2000.
	The public body 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.	The IAAP is a single remit body which does not have policy responsibilities and does not engage in lobbying. The Panel, unlike most advisory NDPBs, do not meet as a group nor is there a Chair. The role of the Panel is to establish the facts that support the appeal and to consider whether the Agency has correctly applied the legislation and its published scheme rules. The Panel addresses its findings to Ministers who decide whether or not to accept the Panel's recommendation. The results of appeals are published in summary form in the RPA's annual report. See Annex C of this report.
	The public body should proactively publish agendas and minutes of board meetings.	Not applicable as the body does not hold formal meetings.
	There should be robust and effective systems in place to ensure that the public body is not, and is not perceived to be, engaging in political lobbying. There should also be restrictions on board members attending Party Conferences in a professional capacity	See above. Rules on political activity are part of Members terms and conditions of appointment.

CONDUCT AND BEHAVIOUR		
Principle	Board members should work to the highest personal and professional standards. They should promote the values of the public body and of good governance through their conduct and behaviour.	Panel Members work to the highest standards and are valued by the industry and by the Minister for the fairness and independence they bring to the appeals process.
Supporting provisions	A Code of Conduct must be in place setting out the standards of personal and professional behaviour expected of all board 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.	Due to the nature of how the IAAP operates, Members are bound by the Code of Practice for Board Members of Public Bodies, as they act in a personal capacity. The IAAP does not have its own code of practice.
	There are clear rules and procedures in place for managing conflicts of interest. There is a publicly available Register of Interests for board members. This is regularly updated.	Potential conflicts of interest are addressed on a case by case basis. Where a Member identifies a conflict of interest with a particular case then another Panel Member is assigned instead. Recommendation 12 refers.
	There must be clear rules in place governing the claiming of expenses. These should be published. Effective systems should be in place to ensure compliance with these rules.	Members fees and expenses are managed in line with Defra policies and practice.
	There are clear rules and guidelines in place on political activity for board members and that there are effective systems in place to ensure compliance with any restrictions.	Part of Members terms and conditions of appointment.
	There are rules in place for board members and senior staff on the acceptance of appointments or employment	Part of Members terms and conditions of appointment.

	after resignation or retirement. These are enforced effectively.	
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