

SCHEDULE 1

RULES OF PROCEDURE: COMPLAINTS

Costs

12.—(1) Where, in the opinion of the tribunal, a party has in bringing the proceedings, or a party or a party's representative has in conducting the proceedings, acted vexatiously, abusively, disruptively or otherwise unreasonably, or a party's actions in bringing the proceedings have been misconceived, the tribunal shall consider making, and if it so decides, may make –

- (a) an order containing an award against that party in respect of the costs incurred by another party;
- (b) an order that that party shall pay to the Department the whole, or any part, of any allowances (other than allowances paid to members of tribunals) paid by the Department under Article 83(2) of the Order of 1998 to any person for the purposes of, or in connection with, his attendance at the tribunal.

(2) Paragraph (1) applies to a respondent who has not entered an appearance in relation to the conduct of any part in the proceedings which he has taken.

(3) An order containing an award against a party (“the first party”) in respect of the costs incurred by another party (“the second party”) shall be –

- (a) where the tribunal thinks fit, an order that the first party pay to the second party a specified sum not exceeding £10,000;
- (b) where those parties agree on a sum to be paid by the first party to the second party in respect of those costs, an order that the first party pay to the second party a specified sum, being the sum so agreed; or
- (c) in any other case, an order that the first party pay to the second party the whole or a specified part of the costs incurred by the second party as assessed by way of detailed assessment (if not otherwise agreed).

(4) Where the tribunal has on the application of a party postponed the day or time fixed for or adjourned the hearing, the tribunal may make orders, of the kinds mentioned in paragraphs (1)(a) and (b), against or, as the case may require, in favour of that party as respects any costs incurred or any allowances paid as a result of the postponement or adjournment.

(5) Any costs required by an order under this rule to be assessed by way of detailed assessment may be so assessed in the county court in accordance with such of the scales prescribed by county court rules for proceedings in the county court as shall be directed by the order.

(6) Where –

- (a) a party has been ordered under rule 7 to pay a deposit as a condition of being permitted to continue to participate in proceedings relating to a matter;
- (b) in respect of that matter, the tribunal has found against that party in its decision; and
- (c) there has been no award of costs made against that party arising out of the proceedings on the matter,

the tribunal shall consider whether to award costs against that party on the ground that he conducted the proceedings relating to the matter unreasonably in persisting in having the matter determined by a tribunal; but the tribunal shall not make an award of costs on that ground unless it has considered the document recording the order under rule 7 and is of the opinion that the reasons which caused the tribunal to find against the party in its decision were substantially the same as the reasons recorded in that document for considering that the contentions of the party had no reasonable prospect of success.

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(7) Where an award of costs is made against a party who has had an order under rule 7 made against him (whether the award arises out of the proceedings relating to the matter in respect of which the order was made or out of proceedings relating to any other matter considered with that matter), his deposit shall be paid in part or full settlement of the award –

- (a) where an award is made in favour of one party, to that party; and
- (b) where awards are made in favour of more than one party, to all of them or any one or more of them as the tribunal thinks fit, and if to all or more than one, in such proportions as the tribunal considers appropriate,

and if the amount of the deposit exceeds the amount of the award of costs, the balance shall be refunded to the party who paid it.