

RED TRACTOR ASSURANCE APPEALS PROCEDURE

This Appeals Procedure will be sent to a member of a Red Tractor sector scheme (“Scheme”) in the event that a decision is taken by Red Tractor Assurance (“RTA”) to terminate that member’s membership of the Scheme or a member disputes their risk categorisation as part of the RTA Risk Based Rules. The member will be entitled to appeal against such a decision in accordance with this Appeals Procedure.

If the appeal by a member is against termination of their RTA membership, in the first instance any complaints will be handled following the documented Complaints procedures and a decision will be made during that process by a member of the RTA Leadership Team as to whether the lead is taken by the Certification Body the ultimate sanction being suspension or withdrawal of the certificate, with an appeal through the CB’s procedure; or by RTA, the ultimate sanction being termination of membership, usually for a breach of Scheme Rules, when this Appeals Procedure will apply.

Appeal Against the Termination of RTA membership

This Appeals Procedure begins at the point where a decision has been made by RTA to terminate a member’s membership of a Scheme.

The principles underlying this Appeals Procedure will be to take decisions that are based on facts, the Scheme Rules and other stated requirements of the Scheme, fairness, and proportionality.

- 1 RTA will notify the member in writing of the termination of membership which will normally be with immediate effect from the date of such letter. The written notice will also so far as practically possible:-
 - 1.1. state the reasons for the termination including which RTA Rule(s) or Product Standard(s) have been breached or not complied with or are being relied upon;
 - 1.2. indicate whether and if so when a new application for membership from the same business or in respect of the same business premises might be considered;
 - 1.3. inform the member of the right to appeal, the time limit for so doing and the procedure by way of a copy of this document;

- 1.4. remind the member that, with immediate effect, it should not make any representation or claim, whether express or implied, that it is an assured member of the Scheme(s) and that it should cease to use any logos associated with the Scheme.
2. The member is entitled to appeal within 14 full days from the date of the letter mentioned in 1. The appeal must be received in writing stating the reason(s) for disputing the decision and wherever possible, should include copies of any or all supporting documentation relied upon. Verbal communication including by telephone should be avoided in order not to prejudice the appeals procedure and RTA staff will not discuss the details of a case with the member from the time of issuing the notice mentioned in paragraph 1 until the appeal is resolved.
3. Upon receipt of an appeal application, RTA will review the grounds of appeal and all supporting documentation relied upon by the appellant. Where necessary clarification may be sought from the appellant on any facts or grounds for appeal mentioned in the appeal application.
4. RTA may at any time prior to an appeal hearing, by written notice to the member in question, revoke any previous decision to terminate the member's membership of the Scheme.
5. A tribunal comprising not less than [3] persons will be appointed by RTA to consider the appeal, one of whom will act as Chairman of the appeal hearing. RTA will take all reasonable steps to ensure that the panel is independent, impartial and competent provided that at least one member of the tribunal shall be a member of the RTA main board of directors.
6. RTA will notify the appellant in writing of the time and place of the appeal hearing and of the members of the panel. The appellant is entitled to question the suitability of any member of the tribunal by notifying RTA in writing within 3 days of the date of this notification giving the reasons for objection. Such an objection will be considered by the Independent Chairman of Red Tractor Assurance and alternative member(s) of the panel shall be appointed if, in the Chairman's sole judgement, the reasons for objection are reasonable. If no objection is raised in writing within the 3 day period, the panel members will be deemed acceptable to the appellant. The appeal hearing will, wherever possible, take place within 30 days after RTA's receipt of the appeal application.
7. Prior to the appeal hearing taking place, RTA will prepare a bundle of documents for the use of the panel and the appellant which should be sent to the appellant as soon as reasonably practicable before the appeal hearing and in any event not less than 7 days before. The bundle of documents should normally consist of the following documents:-
 - 7.1. a copy of this Appeals Procedure which includes (below) the procedure to be followed at the appeal hearing;
 - 7.2. a copy of the notification from RTA of termination of membership;
 - 7.3. a copy of the appellant's written appeal application including any attached documentation relied upon by appellant;
 - 7.4. a copy of the notification from RTA of the appeal hearing;

7.5. copies of any further written communications between RTA and the appellant or other documents considered by RTA to be relevant to the matter in hand.

8 If the appellant wishes any additional documents to be considered by the panel these should, if possible, be sent in advance to RTA for inclusion in the bundle. If any such documents are tabled by the appellant at the appeal hearing at least five additional copies must be provided for the use of panel members and other attendees over and above the copies to be used by the appellant and his representative(s), if any.

9 The appellant may be represented in person at the hearing by him/herself and / or a nominated representative who might be a solicitor. RTA should be notified in advance of attendees and will reserve the right to limit numbers to what is reasonable. Any nominated representative attending in the absence of the appellant should provide written evidence of his authority to act on behalf of the appellant. Where the appellant is a limited company or partnership, it may be represented by a solicitor or nominated representative who should be a director or partner of the appellant. The appeal hearing will also be attended by RTA representative(s).

10 The procedure which will be followed at the appeal hearing is as follows:-

10.1. Introduction by the Chairman who will introduce himself and the other members of the panel, explain the order of representations to be followed during the appeal hearing and note the possible outcomes which will be either to overturn, modify or uphold the original decision;

10.2. The appellant and/or his representative(s) may raise any questions as to the procedure to be followed, and the panel may retire to consider their response to any such questions;

10.3. The RTA representative(s) will outline their reason(s) for terminating the member's membership of the Scheme(s);

10.4. The appellant (or his representative) may respond to the RTA representative(s) and explain the grounds for appeal against such termination of membership. The appellant's response may include questions being asked by the appellant of the RTA representative(s);

10.5. Members of the tribunal may, at any time, ask further questions of the appellant, his representative or the RTA representative(s) concerning the grounds for termination of membership, the grounds of appeal or as to the content of any documents relied upon by either the appellant or RTA;

10.6. The appellant (or his representative) may make a final summary of his appeal;

10.7. The hearing will end and the tribunal will consider their decision which will be communicated in writing subsequently and not on the day of the hearing;

10.8. A lawyer instructed by RTA will be present during the course of the appeal hearing for legal guidance for the benefit of RTA if required by RTA;

- 11 The tribunal will notify the appellant of its decision in writing within 30 days of the hearing. The decision of the panel will be final and binding. Only one appeal will be allowable for a termination of membership arising from the same set of circumstances.

Appeal against risk categorisation

This Appeals Procedure begins at the point where RTA have risk categorised the member following their last inspection (routine or spot check) and the member has been informed of their risk categorisation, and further action required, by their Certification Body.

The principles underlying this Appeals Procedure will be to take decisions that are based on facts, the Scheme Rules, the Risk Based Rules and other stated requirements of the Scheme, fairness, and proportionality.

- 12 RTA will notify the Certification Body of the risk categorisation of the member following the last inspection by the Certification Body, which will either have been their routine surveillance inspection or an unannounced spot check as requested by RTA as part of the Risk Based Rules.
- 13 The Certification Body will inform the member that they are considered 'high risk' and that they will either:
 - 13.1. be subject to an additional unannounced spot check, at their cost;
 - 13.2. or that their unannounced spot check has demonstrated no improvement in their risk categorisation from their previous inspection and are therefore subject to suspension or withdrawal from the Scheme.
- 14 The Certification Body will inform the member of the right to appeal.
- 15 If the appeal is against suspension or termination from the scheme, the Certification Body will remind the member that, with immediate effect, it should not make any representation or claim, whether express or implied, that it is an assured member of the Scheme(s) and that it should cease to use any logos associated with the Scheme.
- 16 The member is entitled to appeal within 14 full days from the date of the Certification Body's letter informing the member of their risk categorisation. The appeal must be received in writing stating the reason(s) for disputing their risk categorisation and should include copies of any or all supporting documentation relied upon. Verbal communication including by telephone should be avoided in order not to prejudice the appeals procedure and RTA staff will not discuss the details of a case with the member from the time an appeal is received.
- 17 Upon receipt of an appeal application, RTA will review the grounds of appeal and all supporting documentation relied upon by the appellant. Where necessary clarification may be sought from the appellant on any facts or grounds for appeal mentioned in the appeal application.

- 18 RTA may at any time prior to an appeal hearing, by written notice to the member in question, revoke any previous decision on the member's risk categorisation.
- 19 A tribunal comprising not less than 3 persons will be appointed by RTA to consider the appeal, one of whom will act as Chairman of the appeal hearing. RTA will take all reasonable steps to ensure that the panel is independent, impartial and competent provided that at least one member of the tribunal shall be a member of the RTA main Board of Directors.
- 20 RTA will notify the appellant in writing of the time and place of the appeal hearing and of the members of the panel. The appellant is entitled to question the suitability of any member of the tribunal by notifying RTA in writing within 3 days of the date of this notification giving the reasons for objection. Such an objection will be considered by the Independent Chairman of Red Tractor Assurance and alternative member(s) of the panel shall be appointed if, in the Chairman's sole judgement, the reasons for objection are reasonable. If no objection is raised in writing within the 3 day period, the panel members will be deemed acceptable to the appellant. The appeal hearing will, wherever possible, take place within 30 days after RTA's receipt of the appeal application.
- 21 Prior to the appeal hearing taking place, RTA will prepare a bundle of documents for the use of the panel and the appellant which should be sent to the appellant as soon as reasonably practicable before the appeal hearing and in any event not less than 7 days before. The bundle of documents should normally consist of the following documents:-
- 21.1. a copy of this Appeals Procedure which includes (below) the procedure to be followed at the appeal hearing;
 - 21.2. a copy of the notification from the member's Certification Body of the risk categorisation and subsequent further action required;
 - 21.3. a copy of the appellant's written appeal application including any attached documentation relied upon by appellant;
 - 21.4. copies of any further written communications between RTA and the appellant or other documents considered by RTA to be relevant to the matter in hand.
- 22 If the appellant wishes any additional documents to be considered by the panel these should, if possible, be sent in advance to RTA for inclusion in the bundle. If any such documents are tabled by the appellant at the appeal hearing at least five additional copies must be provided for the use of panel members and other attendees over and above the copies to be used by the appellant and his representative(s), if any.
- 23 The appellant may be represented in person at the hearing by him/herself and / or a nominated representative who might be a solicitor. RTA should be notified in advance of attendees and will reserve the right to limit numbers to what is reasonable. Any nominated representative attending in the absence of the appellant should provide written evidence of his authority to act on behalf of the appellant. Where the appellant is a limited company or partnership, it may be represented by a solicitor or nominated representative who should be a director or partner of the appellant. The appeal hearing will also be attended by RTA representative(s).

- 24 The procedure which will be followed at the appeal hearing is as follows:-
- 24.1. Introduction by the Chairman who will introduce themselves and the other members of the panel, explain the order of representations to be followed during the appeal hearing and note the possible outcomes which will be either to overturn, modify or uphold the original decision;
 - 24.2. The appellant and/or his representative(s) may raise any questions as to the procedure to be followed, and the panel may retire to consider their response to any such questions;
 - 24.3. The RTA representative(s) will outline the reason(s) for risk categorising the member at the level decided and for requiring the subsequent further action *i.e.* unannounced spot check or suspension/ terminating the member's membership of the Scheme(s) if there has been no improvement in their risk categorisation;
 - 24.4. The appellant (or his representative) may respond to the RTA representative(s) and explain the grounds for appeal against their risk categorisation. The appellant's response may include questions being asked by the appellant of the RTA representative(s);
 - 24.5. Members of the tribunal may, at any time, ask further questions of the appellant, his representative or the RTA representative(s) concerning the grounds for their risk categorisation, the grounds of appeal or as to the content of any documents relied upon by either the appellant or RTA;
 - 24.6. The appellant (or his representative) may make a final summary of his appeal;
 - 24.7. The hearing will end and the tribunal will consider their decision which will be communicated in writing subsequently and not on the day of the hearing;
 - 24.8. A lawyer instructed by RTA will be present during the course of the appeal hearing for legal guidance for the benefit of RTA if required by RTA;
- 25 The tribunal will notify the appellant of its decision in writing within 30 days of the hearing. The decision of the panel will be final and binding. Only one appeal will be allowable for a risk categorisation arising from the same set of circumstances.