

**DRAFT Ancillary Document:**

**Appeals Procedure for the PAF**

**1.0 Definitions**

*tbc*

**2.0 Introduction**

*tbc*

**3.0 Purpose**

3.1 To enable it to deliver upon its purpose of identifying and mitigating gas Settlement inaccuracy, the gas PAF gives PAC the power to apply Performance Assurance Techniques (PATs) to various industry roles. The circumstances in which PAC can do this for each PAT are set out in the ancillary document on PAT's.

3.2 The parties to whom the PATs are applied (the subject of a PAT) can be materially affected, financially, operationally or reputationally, by their application.

3.3 The subject of a PAT may believe that the accuracy of the information underpinning PAC's use of a PAT is materially and demonstrably incorrect. It may also believe that the procedure surrounding use of the PAT, as set out in the PAT technical document, has demonstrably not been followed, resulting in a material impact on the subject.

3.4 In these circumstances, the subject of the PAT is entitled to appeal the PAC's decision to the UNCC. The decision of the UNCC regarding the appeal is final.

**4.0 Criteria for an Appeal**

4.1 The criteria for a valid appeal, to be put before UNCC, are as follows:

- The inaccuracy of fact or irregularity of procedure can be demonstrated, such that there is specific alternative information on which PAC should instead rely or a specific alternative way in which a procedure should have been enacted
- A material inaccuracy of fact or irregularity of procedure has occurred, such that the outcome would be different if the correct information or procedure were used instead
- The appeal must be raised with UNCC within **[1 month]** of the relevant PAC decision

**5.0 Procedure**

5.1 The gas PAFA will assess any appeal of PAC's use of a PAT on the above basis before presenting the appeal to UNCC at the next practicable opportunity.

5.2 The PAFA's initial views on the validity of the appeal and the appropriate rectification will be presented to the UNCC alongside the appellant's representations.

5.3 PAC will be informed of the appeal. Its original reasons for applying the PAT will form part of the material PAFA provide to UNCC to aid its decision on the appeal.

5.4 During the period between an appeal being raised and the UNCC hearing the appeal, any obligations on the appellant, PAC and PAFA pursuant to a PAT which is wholly or partly the subject of the appeal will be suspended. The UNCC's decision on the appeal will include guidance for resumption or termination of timescales for action under any of the PATs at issue.

5.5 The UNCC will treat the matter as confidential. All meetings to hear the appeal will be closed and the meeting and the material presented for consideration during an appeal will not be published.

5.6 The appellant may be invited to present their case and their supporting evidence. Notice of the meeting will be not less than [two weeks].

5.7 The UNCC will determine the extent to which it accepts the appeal. This could be wholly, partially or not accepted. The UNCC may recommend or provide guidance on how or whether the application of the PAC decision resumes or continues.

## **6.0 Appeal Decision**

6.1 The UNCC will respond in writing to the appellant within [two weeks] of making their decision with the reasons for its decision. The decision will also be copied to the PAC.

6.2 The UNCC will also include its recommendations or guidance to the PAC within any letter to the appellant.

6.3 Where the appellant remains of the view that their reason for appeal is valid and that the UNCC have not taken a fair and balanced view of their evidence, the appellant may appeal to Ofgem. Any PAT's may resume or be continued until Ofgem provides its decision. The decision of Ofgem will be final.