



Title	B06 Appeals process for WEEELABEX Systems and Operators
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## 1 Introduction

The primary purpose of this document is to describe the appeals procedure the WEEELABEX Organisation will follow if an appeal is lodged by a WEEELABEX System or a (candidate) WEEELABEX Operator against a conformity verification or listing / de-listing decision which negatively affects them.

- Any such appeal suspends any decision against which the appeal is introduced.
- The language of the appeal proceedings will be English, unless the parties to the appeal proceedings agree otherwise.

### 1.1 How to use this document

This document is based upon the roles of:

- The WEEELABEX Office
- The WEEELABEX Auditor who performed the conformity verification audit in question
- The (candidate) WEEELABEX Operators whose facility is the subject of the appeal (and/or if they are the complainant)
- The WEEELABEX System (if they are the complainant)
- The Appeal Auditors

## 2 The appeal process

### 2.1 When to appeal

A (complainant) (candidate) WEEELABEX Operator or a (complainant) WEEELABEX System, may appeal against the outcome of a conformity verification audit should:

- a new candidate WEEELABEX Operator receive a negative evaluation for one or more of his treatment process streams following an audit of his WEEE facility and they are not listed;
- an existing WEEELABEX Operator receive a negative evaluation for one or more of his treatment process streams following an audit of his WEEE facility and he is de-listed; and
- a WEEELABEX System believe there are faults, errors and/or omissions in the evaluation process performed on one or more of the treatment process streams at a listed WEEELABEX Operator's facility, and therefore the decision to list the operator (for one or more of his treatment process streams) should be withdrawn.
- With the exception set out in 5.2 below, the complainant will be responsible for the service fees of the Appeal Auditors.

### 2.2 Appeals process flow chart

If an appeal is received by the WEEELABEX Organisation the following appeals process flow chart shall be followed:

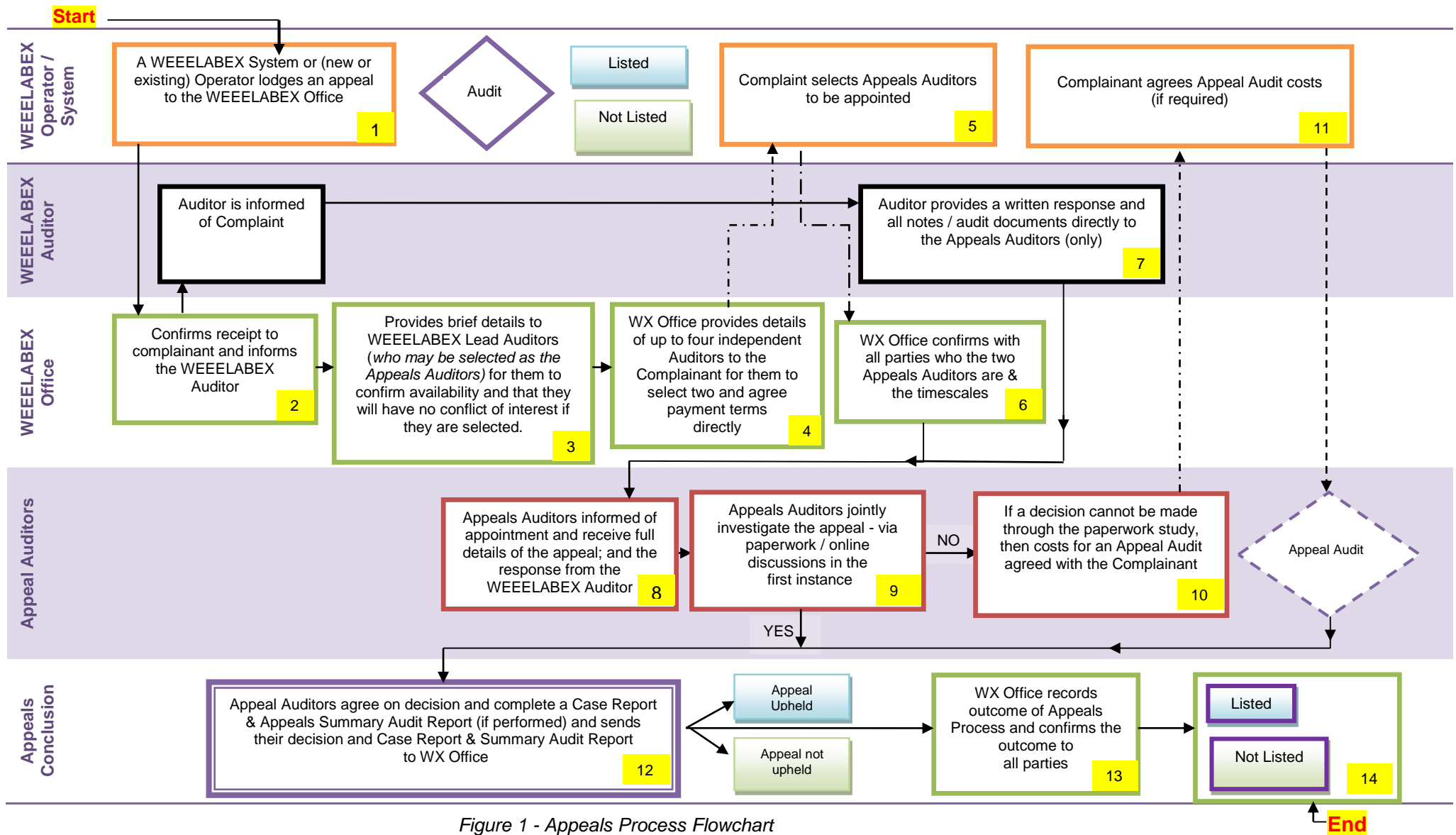


Figure 1 - Appeals Process Flowchart

### **2.3 Grounds of appeal**

The grounds of appeal are to be limited to the audit process and may include, but are not limited to:

- the outcome of one or more of the audits performed (a negative or a positive general audit report; specialist audit report and / or batch test)
- the impartiality, behaviour or attitude of the auditor who performed the audit

### **2.4 Making an appeal**

The complainant shall write to the WEEELABEX Office with the following details:

- complainant name and address; contact name; telephone number and email address;
- address of the WEEE treatment facility;
- name of the WEEELABEX Auditor(s) and any other members of the audit team;
- the date of all of the audits performed (general; specialist and batch tests)
- the grounds of the appeal (details of the complaint being lodged).

### **2.5 Deadlines for making an appeal**

An appeal must be lodged with the following time frames:

2.5.1 If the complainant is a (candidate) WEEELABEX Operator then the appeal must be received by the WEEELABEX Organisation within 15 days of receipt of the negative decision to not list or de-list their facility or treatment process stream(s).

2.5.2 If the complainant is a WEEELABEX System, then the appeal must be received by the WEEELABEX Organisation within 15 days of the publication of the positive decision to list a WEEELABEX Operator's facility or treatment process stream(s).

### **2.6 Deadline for determining an appeal**

An appeal shall be completed as soon as possible but no later than six months from the date it is received by the WEEELABEX Office.

2.6.1 The WEEELABEX Office shall be responsible for ensuring that all relevant parties are made aware of the deadline date when an appeal is received, and for monitoring and managing the process to ensure a timely delivery of the decision.

## **3 The steps of an appeal procedure**

The following steps are linked to the numbered steps shown in *Figure 1 - Appeals Process Flowchart*:

1. The complainant sends his appeal to the WEEELABEX Office with the information required in clause 2.4
2. The WEEELABEX Office shall check that the required details have been submitted correctly (e.g. confirming the details of decision to list or de-list and that the audit dates and WEEELABEX Auditor etc. are correct).

- a. If this is confirmed, the WEEELABEX Office will acknowledge receipt of the appeal, providing the date (which sets the deadline date for the appeal process) and reference number.
  - b. Should the details not be confirmed, then the WEEELABEX Office will contact the complainant to ascertain the correct facts, when the checks and acknowledgement will once again be performed within 5 working days of the correct details being received.
    - 2.1 The WEEELABEX Office will ensure that the checks and acknowledgement are made within 5 working days.
    - 2.2 The WEEELABEX Office will inform the relevant WEEELABEX Lead Auditor of the appeal so that they may prepare their response and audit documents.
3. With the exception of those auditors who are connected to the appeal, the WEEELABEX Office shall make contact with all the WEEELABEX Lead Auditors, providing brief details of the appeal only, to ascertain if they are available to hear an appeal; and if so, to confirm if they consider if they have a conflict of interest in the matter of the appeal.
- a. WEEELABEX Lead Auditors are not required to be available to hear appeals, this is an optional activity.
  - b. The brief details to be circulated shall only contain the relative date and reference number of the appeal; the name and address of the WEEE Facility; and the type of audit and / or treatment process streams that are the subject of the appeal.
    - 3.1 The WEEELABEX Office will aim to ensure that at least four WEEELABEX Lead Auditors respond positively to the call within 10 working days.
    - 3.2 The WEEELABEX Office shall not make any selection from those WEEELABEX Lead Auditors responding, but will nominate the first four positive responses (to ensure that WEEELABEX Lead Auditors respond as promptly as possible).
    - 3.3 The WEEELABEX Lead Auditors nominated to the complainant will then be known as Appeal Auditors (for the duration of the appeal only).
4. The WEEELABEX Office will provide the complainant with the names and contact details of up to four independent Appeal Auditors as promptly as possible.
- 4.1 The complainant shall contact those Auditors to ascertain their costs, initially for the desk-top review of the grounds of the appeal and appeal documents.
  - 4.2 Where the complainant is a (candidate) WEEELABEX Operator or a WEEELABEX System, he may reject one or all of the nominated Appeal Auditors on the grounds of a known conflict of interest only.
  - 4.3 Where the complainant is a WEEELABEX System, the listed WEEELABEX Operator may also reject one or all of the nominated Appeal Auditors on the grounds of a known conflict of interest only.
  - 4.4 If any Appeal Auditors are rejected, the WEEELABEX Office will pursue alternative WEEELABEX Lead Auditors, and nominate them to the complainant.

- 4.5 If no WEEELABEX Lead Auditors are available at the time the appeal is lodged, the deadline date will be extended to accommodate the timeframe when two WEEELABEX Lead Auditors are available, which shall be as soon as possible, and the WEEELABEX Office shall inform all parties of this change.
5. The complainant shall select two Appeal Auditors from the list (and agree payment terms directly), and shall inform the WEEELABEX Office of their decision within 10 working days.
  - 5.1 The complainant will nominate the Appeal Chair at the time of the appointment, who shall have a casting vote if a consensus between the Appeal Auditors cannot be achieved.
  - 5.2 In the case where the complainant is a WEEELABEX System, a listed WEEELABEX Operator may also nominate one additional independent WEEELABEX Lead Auditor (and agree payment terms directly) to work as a third Appeal Auditor; and shall inform the WEEELABEX Office of their decision within 10 working days.
6. The WEEELABEX Office shall then confirm with all parties:
  - a. Who the Appeal Auditors are and their contact details;
  - b. The remaining time left for the investigation and decision making processes; and
  - c. Provide the Appeal Auditors with all the grounds of the appeal.
7. The WEEELABEX Lead Auditor who performed the conformity verification audit shall provide the Appeal Auditors with a written response to an appeal and all copies of the audit report, batch tests and summary report within fifteen working days of being notified of the appeal. The lead auditor should provide the Appeal Auditors with:
  - a. Their written response to the appeal;
  - b. The audit report and summary audit report - be that the general audit; specialist audit or batch test, as relevant to the grounds of the appeal;
  - c. The details of any batch test and / or associated technical information relating to the grounds of the appeal; and
  - d. Any other information that the Appeal Auditors considered to be necessary to their investigation.
8. The Appeal Auditors shall ensure that the information provided by the WEEELABEX Office of the aforementioned WEEELABEX Lead Auditor is kept confidential and is not passed to any other party.
  - 8.1 If at any time a conflict of interest becomes known by any of the Appeal Auditors, they shall immediately inform all parties and shall return all documents received to the relevant party; and withdraw from the process.
  - 8.2 An alternative Appeal Auditor shall be selected using the process described above.
9. The Appeal Auditors shall investigate the grounds of the appeal using the documents and information provided in order to determine whether or not the formal and/or material errors

claimed by the complainant have unquestionably been made in the course of the audit process.

a. If a (negative or positive) decision can be concluded from the written information provided then the Appeal Auditors shall complete a Case Report and send their decision to the WEEELABEX Office who will pass copies to all parties.

10. If one or both of them is of the opinion that errors have been made but a conclusion cannot be reached through the desktop study of the case, the Appeal Auditors shall inform their costs to the complainant for the performance of a new audit.

10.1 The costs shall be on the basis that the audit shall be conducted by all Appeal Auditors (at the same time).

10.2 The Appeal Audit shall, as far as possible, replicate the performance of the audit in the grounds of the appeal.

11. The complainant shall agree the payment terms with the Appeal Auditors, who shall then make all necessary arrangements to carry out the audit as quickly as possible.

a. Where the complainant is the WEEELABEX System, and the WEEELABEX Operator has nominated to have a third Appeal Auditor, they shall be responsible for the costs of this person.

b. If additional technical members or specialist WEEELABEX Auditors are required, the costs shall be paid by the complainant or borne equally by the WEEELABEX Operator and System (where relevant).

c. The Appeal Auditors shall inform the WEEELABEX Office of the audit date so that the timeline can be monitored.

12. On completion of the audit, the Appeal Auditors shall make their conclusions to uphold or reject the Appeal and provide a Case Report (and a copy of the second summary audit report if one is performed) to the WEEELABEX Office.

13. The WEEELABEX Office will pass copies to all the relevant parties, who shall be required to keep all the said documents confidential and not pass them to any other party.

13.1 No details of the Appeal Auditors; Case Report or summary audit report (if one is performed) or other part of the appeal process shall be published by the WEEELABEX Office.

14. The decision by the Appeal Auditors shall be final and binding.

14.1 The WEEELABEX Office will either list or de-list the (candidate) WEEELABEX Operator as appropriate.