
STATUTORY INSTRUMENTS

2003 No. 1483

**The Local Authorities (Code of Conduct)
(Local Determination) Regulations 2003**

PART 3

APPEALS

Notice of appeals

9.—(1) Where a standards committee of an authority makes a finding under regulation 7(1) the member who is the subject of that finding may, by way of notice in writing given to the president of the Adjudication Panel, seek permission to appeal.

(2) Such notice requesting permission to appeal must be received by the president of the Adjudication Panel within 21 days of the member's receipt of notification of a finding made under regulation 7(1) and must specify—

- (a) the reasons for the appeal; and
- (b) whether or not that member consents to the appeal being conducted by way of written representations.

(3) An application for permission to appeal shall be decided by the president of the Adjudication Panel or, in his absence, by the deputy president on consideration of the application and, unless the president or the deputy president (as the case may be) considers that special circumstances render a hearing desirable, in the absence of the parties.

(4) In reaching his decision as to whether to give permission to appeal against the finding of a standards committee under regulation 7(1)(b) pursuant to paragraph (3) the president, or in his absence the deputy president, shall have regard to whether there is a reasonable prospect of the appeal being successful (either in whole or in part).

(5) The president or, in his absence, the deputy president shall, within 21 days of receipt of a notice requesting permission to appeal given in accordance with paragraphs (1) and (2), send notice of the decision made pursuant to paragraph (3) to—

- (a) the member who gave notice of appeal;
- (b) the ethical standards officer concerned;
- (c) the standards committee of the authorities concerned;
- (d) any parish councils concerned; and
- (e) any person who made an allegation that gave rise to the investigation.

(6) If permission is refused the notice given under paragraph (5) shall give the reasons for that decision.

Conduct of appeals

10.—(1) Where permission for an appeal to proceed has been given pursuant to regulation 9 the person sending notice of that decision shall refer that matter to a tribunal (referred to in these Regulations as an “appeals tribunal”) which shall conduct an appeal in accordance with this Part.

(2) Where a member does not indicate his consent to an appeal being conducted by written representations in accordance with regulation 9(2)(b), an appeals tribunal shall conduct an appeal hearing.

(3) Where an appeal hearing is to be held the member concerned shall be given 21 days notice in writing of the date of the hearing by the appeals tribunal.

(4) Where a member indicates his consent to an appeal being conducted by written representations in accordance with regulation 9(2)(b), an appeals tribunal may either—

(a) conduct an appeal hearing; or

(b) conduct the appeal by way of written representations,

as the appeals tribunal shall see fit.

(5) The member concerned may appear at any hearing before the appeals tribunal in person or may be represented by counsel, a solicitor or, subject to the prior consent of the appeals tribunal, any person whom he desires to represent him.

Composition of appeals tribunals

11.—(1) An appeals tribunal shall consist of not less than three members appointed by the president of the Adjudication Panel (or in his absence the deputy president) from the members of the Adjudication Panel.

(2) The president or the deputy president of the Adjudication Panel may be a member of an appeals tribunal.

(3) A member of the Adjudication Panel may not at any time be a member of an appeals tribunal drawn from the Panel which is to conduct an appeal on a matter relating to a member of an authority if, within the period of five years ending with that time, the member of the Adjudication Panel has been a member or an officer of any of the authorities concerned or a member of any committee, sub-committee, joint committee or joint sub-committee of any of the authorities concerned.

(4) A member of the Adjudication Panel who is directly or indirectly interested in any matter which is, or is likely to be, the subject of an appeal conducted by an appeals tribunal—

(a) must disclose the nature of his interest to the president or deputy president of that Panel; and

(b) may not be a member of an appeals tribunal which conducts an appeal in relation to that matter.

(5) An appeals tribunal shall conduct an appeal using such procedures as it considers appropriate in the circumstances.

Failure of member to attend appeal hearing

12.—(1) If a member fails to attend or be represented at an appeal hearing of which he has been duly notified, the appeals tribunal may—

(a) unless it is satisfied that there is sufficient reason for such absence, hear and determine the appeal in that person’s absence, or

(b) adjourn the hearing.

(2) Before deciding to determine an appeal in the absence of a member, the appeals tribunal shall consider any representations in writing submitted by that person in response to the notice of hearing and, for the purpose of this paragraph, any reply shall be treated as a representation in writing.

Outcome of appeals

13.—(1) An appeals tribunal which conducts an appeal under this Part must uphold or dismiss the finding or, if it so decides, part of the finding of a standards committee made under regulation 7(1).

(2) Where an appeals tribunal upholds the finding, or part of a finding, of a standards committee made under regulation 7(1), it may—

- (a) approve any penalty imposed by that committee;
- (b) require that committee to impose a penalty under regulation 7(2) or (3); or
- (c) require that committee to impose a different penalty under regulation 7(2) or (3) from that already imposed.

(3) Where an appeals tribunal dismisses the finding of a standards committee made under regulation 7(1), the decision of that committee (including any sanction imposed) shall cease to have effect from the date of that dismissal.

(4) The appeals tribunal must give written notice of its decision to—

- (a) the member who is the subject of the decision to which the notice relates;
- (b) the ethical standards officer concerned;
- (c) the standards committee of the authorities concerned; and
- (d) any person who made an allegation that gave rise to the investigation.

(5) The appeals tribunal must arrange for a summary of its decision to be published in one or more newspapers circulating in the area of the authorities concerned.

(6) A standards committee must comply with any decision of an appeals tribunal of which it is given notice under this regulation.