

Appendix 3 of R09

SECTION 8

REVIEW / APPEALS PROCEDURES IN RELATION TO ALLEGATIONS OF A BREACH OF THE CODE OF PRACTICE APPOINTMENT TO POSITIONS IN THE CIVIL SERVICE AND PUBLIC SERVICE

General information

- 8.1** The review/appeals process enables persons to seek a review by the office holder in the first instance, and by the Commission subsequently on appeal, when they believe that there was a breach of the Code of Practice by an office holder. Allegations of such breaches should be addressed in writing, setting out the basis for the complaint being made, to the office holder in the first instance. The Commission has no remit to investigate complaints relating to non-selection or non-appointment unless it appears reasonable to conclude from the information provided to it that the selection process may have breached the Code of Practice, save where the complaint relates to an alleged failure to conduct a review under Section 7 or Section 8 in accordance with the requirements of Section 7 or Section 8.
- 8.2** As with the recruitment processes themselves, and within reason, fair procedures should be applied by all bodies dealing with complaints and requests for review.
- 8.3** A complaint in relation to an alleged breach of the Code of Practice will be accepted by the Commission only when it has been examined by the office holder in the first instance and the complainant is dissatisfied with the outcome of that examination.

Informal Process

- 8.4** When an allegation of a breach of the Code of Practice is received from a complainant, the Commission recommends that every effort should be made by the office holder, subject to the agreement of the complainant, to resolve the matter on an informal basis before making use of the formal review procedures set out below. Should the complainant remain dissatisfied following any such discussion, or not wish to have the matter dealt with informally, then he/she may adopt the formal procedures in accordance with the process set out below.
- 8.5** The informal process should normally take place between the complainant and the person acting on behalf of the office holder. The office holder must carry out the informal review without delay.
- 8.6** Where a complainant remains dissatisfied following any such informal discussion, he/she may adopt the formal procedures set out below. If the complainant wishes the matter to be dealt with by way of a formal review, he/she must do so within 2 working days of the notification of the outcome of the informal review.

Formal Review by the Office Holder

- 8.7** The standards and procedures to be followed by the complainant and the office holder in relation to allegations of breaches of the Code of Practice are set out below.
- A complaint in relation to a breach of the Code of Practice must be made in writing to the office holder without delay. Details of the allegation should be provided in writing, together with any relevant documentation which the complainant feels might support his/her allegations.

- Upon receipt of the complaint, the office holder should issue an acknowledgement within 3 working days.
- The complaint should be reviewed by a person other than any individual directly associated with the appointment process in question. The person(s) conducting the review (the “Reviewer(s)”) will have regard to all information which is material to the complaint, including any emails, notes or memoranda prepared by the personnel of the office holder, and including also any relevant documentation provided by the complainant. Where necessary the Reviewer will meet with personnel of the office holder relevant to the complaint and/or the complainant for the purpose of eliciting further information. Subject to any statutory (or other) restrictions on disclosure etc. the Reviewer shall provide the complainant with any relevant and material emails, notes and memoranda held by the personnel of the office holder in respect of the appointment process in question.
- The outcome must generally be notified to the complainant within 20 working days of receipt of the complaint. Where the investigation does not allow a decision within this timeframe, the complainant must be kept informed of the status of the review and the reasons for the delay.
- In communicating the outcome to the complainant, the office holder should indicate that the complainant may seek a further review by referring the matter to the Commission by way of an appeal of the review of the office holder. The office holder must further state that any such appeal must be made in writing within 10 working days of receipt of the outcome of the office holder’s review.

8.8 In order to facilitate the Commission in its review of alleged breaches of the Code of Practice, office holders must keep a full record of all correspondence and any relevant documentation, such as minutes of meetings, records of emails and notes of telephone conversations or meetings, as well as all documentation provided by the complainant in respect of the complaint.

Formal Review by the Commission

8.9 The Commission may take whatever action it considers necessary where it deems there to have been a failure, on the balance of probabilities, to comply with the Code of Practice, in accordance with the provisions of the Public Service Management (Recruitment and Appointments) Act 2004, including the revocation of a recruitment licence, where appropriate.

8.10 The procedures and standards to be followed by the Commission in the handling of complaints of alleged breaches of the Code of Practice are set out below.

- An appeal to the Commission in relation to an alleged breach of the Code of Practice must be made in writing within 10 working days of receipt of the notification of the decision of the office holder. Details of the grounds of appeal, together with any documentation supporting such grounds, and any documentation provided to the office holder in respect of the original request for review, should be provided in writing to the Commission within this timeframe.
- Acknowledgement of receipt of the request will be made within 3 working days.

- The complaint will be examined by the Commission.
- The outcome will be notified, in the form of a written report, to the party making the complaint and the office holder within 25 working days. Where the investigation does not allow a decision within this timeframe, the Commission will keep both parties informed of the status of the review and the reasons for the delay.
- The Commission will make its decision on the basis of any written information available in respect of the matter, or on the basis of any written submissions made to it, and will not generally conduct interviews, although it may do so if warranted by the particular circumstances of individual cases.
- The decision of the Commission is final.