

COMPLAINT APPEAL PROCEDURE

After a decision has been made regarding a complaint any decision is open to judicial review by the High Court if the decision is alleged to be unreasonable, or taken improperly, or if it sought to impose a sanction which the Authority had no power to impose.

Also, a complaint of maladministration in dealing with a complaint falls within the jurisdiction of the Local Government Ombudsman.

However, a limited appeal mechanism in relation to these decisions allows for a sub-committee appeals panel of 3 members of the Standards Committee, who must not have heard the original matter to review the appeal. This is subject to specific and limited criteria, thus providing confidence for members.

It is important that the appeal does not become another hearing, but focuses on reviewing the decision that was taken and re-hears the relevant evidence to test this decision.

The appeal panel would not reinvestigate the complaint itself and would only review the decision of the standards committee/subcommittee and ensure there were no errors procedurally.

The appeal must be made within 5 working days of the Standards Sub Committee decision being given. The appeal should be in writing and sent to the Monitoring Officer.

Under this appeal the parties will not be able to introduce new evidence, as this should have been provided within the investigation process/hearing stage, unless the evidence was not available at the time of the original hearing (this would need to be supported by evidence that it was not available at the time of the original hearing). **The subcommittee is the decision maker** and the appeal panel's decision is not to be taken to the Standards Committee for further approval. The Standards Committee are to be notified of the decision of the appeals panel.

As per the Hearing Procedure each party are able to present their case and refer to their original supporting witness evidence (and new evidence if agreed by MDDC prior to the hearing), and both parties and the panel are able to question each witness. MDDC would present their case first, and then the Member would present their case afterwards.

Nothing in this procedure will prevent the panel from inviting either party or representative to describe or clarify any statement they have made.

Should the panel believe that further investigation or evidence is required, then an adjournment may be called to enable this to take place. The hearing will be reconvened as soon as practicably possible.

Following the 'summing up' both parties will withdraw from the hearing. The panel will deliberate in private only recalling both parties to clarify points of uncertainty on evidence already given. If recall is necessary, both parties will be requested to return notwithstanding that only one is concerned with the point giving rise to doubt.

The panel will reconvene to announce their decision to both parties verbally where possible. In any event the parties will be notified of the decision in writing within 7 working days of the appeal panel hearing.