

English Appeals Panel Procedures – June 2020

1. Mission Statement

1.1 The Panel exists under Article 9 of the English Party Constitution to resolve internal conflicts falling within Article 9.3

1.2 In discharging its duties, the Panel shall act in accordance with the principles of natural justice; and shall be accessible, transparent and expeditious.

1.3 Where appropriate, the Panel will encourage mediation; where necessary, it will make firm decisions by proper process. (Article 9.5 a (ii))

1.4 In dealing with any complaint the Panel will have regard to the Human Rights Act 1998 and in particular to Article 6 of the European Convention of Human Rights.

1.5 When dealing with a complaint, members are reminded that this is an internal dispute resolution procedure between the complainant, respondent and Panel and all communications must be direct and cannot be conducted with third parties. This is to maintain the confidentiality of the process unless or until the panel publishes its findings.

Officers and Panel Members

2.1 There shall be a Chair of the Panel appointed in accordance with Article 9.1 (a)

2.2 There shall be two Vice-Chairs of the Panel who shall be the other members of the panel appointed under Article 9.1 (a). In the case of the Chair of the Panel being unavailable or conflicted on a case one of the Vice-Chairs may assume the powers given to the Chair under these procedures.

2.3 The other members of the Panel shall be appointed by the English Regional Parties under Article 9.1 (b)

Initial Procedures

3.1 Any complaint, interpretation of the constitution or request for informal advice, shall be made in the first instance to the Panel within 6 weeks of the event, ruling or issue to be determined subject the right of the panel to extend this time in exceptional circumstances.

3.2 The standard appeal form is obtainable from the Standards Officer at Liberal Democrats Headquarters (LDHQ) and it must be returned to the same within fourteen days of its receipt. In completing the form, the appellant will identify:

- (a) the detail of the Party body or Party official with whom the appellant is in dispute i.e. the respondent; and

- (b) the grounds of the proposed appeal; and
- (c) the remedy being sought.

3.3 The panel will be careful not to hear disputes which are in the first instance outside their jurisdiction, for instance where another remedy exists that has not been exhausted, such as an appeal under the candidate selection rules.

3.4 The Chair, shall designate themselves, or one of the Vice-Chairs, as the Case Manager in respect thereof. The Case Manager shall ensure that any complaint is in a form which is both coherent and acceptable to the complainant.

3.5 The Case Manager may give informal advice, and may recommend (and, if so, assist) with mediation; however, if the Case Manager conducts an unsuccessful mediation, he may take no further part in the determination of the complaint, and the Chair shall if thought fit appoint a different Case Manager. (Article 9.5 (a) (ii))

3.6 The Case Manager, in consultation with the other Officers, will determine;

a) whether or not the case falls within the jurisdiction of the Panel (and the Officers shall have power to determine that a case falls out with such jurisdiction because it is deemed to be untimely, insubstantial, unmeritorious, vexatious or where the complainant has not exhausted his remedies elsewhere); and (Article 9.5 a (i))

b) the timetable and preliminary procedures for that case and a power to the case manager to impose deadlines (and so that any appeal must, unless the case manager extends this deadline in exceptional circumstances, be concluded within three months of being lodged, and may be dismissed if the appellant does not co-operate with the related timetable). (Article 9.5 (a) (iii))

3.7 If the complainant does not comply in a timely way with such procedures, the Officers may determine the case without any evidence not supplied by a deadline.

3.8 The Officers may also determine, in relation to any complaint where there is no (or no material) dispute as to the facts, that the matter should be determined without an oral hearing.

3.9 Subject to the foregoing the Case Manager shall have power:

- a) to seek further information from the complainant;
- b) to determine the appropriate respondent(s); and
- c) to determine the procedures to be used, and the issues to be adjudicated, by the Case Panel appointed to determine the case. (Article 9.5 (a) (iv))

Exchange of Papers

4.1 If an appeal hearing is to be called, then the Panel will request the Appellant and the Respondent to submit a bundle of essential papers upon which each side will defend their case at the hearing. The bundles of papers need to be submitted at least 10 days before the hearing date. Then, the Panel will arrange for them to be exchanged between the parties.

4.2 Each bundle needs to contain only papers that are fundamental to the case the either the Appellant or the Respondent are seeking to depend on and which will be presented at the appeal hearing. Each bundle should be paginated. The submission of a volume of background papers should NOT be included in the bundle.

4.3 Each party, having examined the paginated bundle of the other, can then submit to the Standards Officer once, further papers of evidence to cover a point raised by the other party no later than 7 days before the hearing, which shall be distributed no later than 5 days before the hearing.

4.4 New documents not in the distributed bundle will not normally be considered at the hearing without the permission of the Chair of the hearing.

4.5 All communications must be direct between the parties and cannot be conducted with third parties.

Determinations

5.1 In the case of a request for an interpretation of the constitution or rules or standing orders made under it (other than a dispute over the respective powers of the Liberal Democrats in England and a Regional Party). The case manager shall be empowered to make definitive rulings by themselves. Such rulings shall be definitive subject to further challenge to a full panel which shall be subject to the terms of 3.5 a) above. This shall include requests for extensions to cases required under point 3.1 above, by any English Party constitutional provision and the English Party membership rules in any cases in which they still apply. (ref Article 9.4 (a))

5.2 The Members (and the Chair) of the Panel to hear a particular case (“the Case Panel”) shall be selected by the Chair in accordance with, and subject to, Article . 9.4 (b-c) (ref Article 9.4)

(a) the Chair shall select a chair for each Panel, who shall (other than in exceptional circumstances) be one of those holding office under Article 9.1(a);

(b) at least three members (at least one of whom shall be a man and at least one a woman) shall hear any case.

(c) the members hearing a dispute under Article 7 shall if practicable include a former parliamentary or European parliamentary candidate; and

(d) no member shall be from the same Region as the appellant or have any direct knowledge of the matters in dispute.

5.3 Where there is an oral hearing, it shall be conducted as far as possible in accordance with section 6 of these Procedures, a copy of which shall be given to each party in advance thereof, together with details of any proposed deviations therefrom. If any party fails to attend such an oral hearing, the Case Panel may nevertheless determine the matter. (ref Article 9.5 (b))

5.4 Following or in the absence of an oral hearing, the Chair of the Case Panel shall produce a draft determination for approval by the other Members of the Case Panel. Such draft determination shall also be sent to the other Officers by way of consultation on matters of law (but not fact), and the Case Panel shall have regard to any comments they make.

5.5 Such determination, or a summary thereof, shall normally be made available to all parties, and to all Members of the Panel. In the case of an oral hearing, this shall be within 21 days thereafter.

5.6 The Officers shall determine upon any form of publication or other circulation of a determination, and in so doing shall have regard to Article 14.6 and to the desirability of publishing any part of any decision which may be of precedential or other useful effect. (ref Article 9.6)

Conduct of an Oral Hearing

6.1 The appeal will be heard by three members of the appeals panel and will be chaired either by the Chair or by one of the Vice-Chairs elected by the English Council.

6.2 Normally, the Appellant will speak first, to present her or his case. The Appellant may call witnesses as to disputed fact only, although these may also give their evidence in written form to the panel. The appellant may be assisted by a friend, who may speak for the Appellant at any time, however the friend should avoid simple repetition of points that were already made by the Appellant.

6.3 The Respondent or representative may cross-examine the Appellant and or any witnesses.

6.4 The case for the Appellant should not last longer than 45 minutes, unless the Chair believes that the case has not been properly put in this time.

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6.6 The appellant may also cross-examine as directed by the Chair.

6.7 Panel members may ask for clarification or cross-examine at any time.

6.8 Each side will have up to 5 minutes to sum up their case but only on the evidence adduced to that point. No new evidence is permitted during the summary.

6.9 The Panel will then consider their conclusion. At their discretion, they may announce the conclusion on the day, or reserve it until a written report has been produced.

6.10 Determinations shall be dealt with as set out in section 5 above.

Status of Decisions of the Panel

7.1 Any decision of the Panel shall, subject to any right of appeal under the Federal Constitution, be final and binding on all concerned.