

CARE STANDARDS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part VII: Protection of Children and Vulnerable Adults

Protection of vulnerable adults

Section 86 Appeals against inclusion in the list

236. Individuals will have a right to appeal against a decision by Secretary of State to include them on the list, but (subject to *subsection (2)*) not against a provisional inclusion while the referral is being investigated. Appeals will be heard by the Tribunal established under PoCA. Individuals will also be able to apply to the Tribunal to appeal against a decision of the Secretary of State not to remove their name from the list on the grounds that their inclusion was erroneous.
237. If the Tribunal is not satisfied, either that the individual was guilty of misconduct, or that he is unsuitable to work with vulnerable adults, it will allow the appeal and direct that the individual's name should be removed from the list. In considering an appeal where an individual has been convicted of an offence, the Tribunal cannot challenge any fact on which the conviction was based.
238. *Subsection (2)* provides that if an individual's name has provisionally been on the list for more than nine months without a decision being made, he can ask the Tribunal to determine his case instead of the Secretary of State. This will not apply where a criminal or civil case is pending, in which case the individual cannot ask the Tribunal to determine his case until 6 months after the final outcome (or "final determination") of the court case. "Final determination" is defined in *subsection (6)*.