
STATUTORY INSTRUMENTS

2002 No. 816

**The Protection of Children and Vulnerable Adults
and Care Standards Tribunal Regulations 2002**

**PART VI
DECISION**

The decision

23.—(1) The Tribunal’s decision may be taken by a majority and the decision shall record whether it was unanimous or taken by a majority.

(2) The decision may be made and announced at the end of the hearing or reserved, and in any event, whether there has been a hearing or not, the decision must be recorded without delay in a document signed and dated by the chairman (or if as a result of his death or incapacity he is unable to sign, or if he ceases to be a member of the chairman’s panel, by another member of the Tribunal).

(3) The document mentioned in paragraph (2) must also state—

- (a) the reasons for the decision; and
- (b) what, if any, order the Tribunal has made as a result of its decision.

(4) The Secretary must, as soon as reasonably possible, send to each party a copy of the document mentioned in paragraph (2) and a notice explaining to the parties any right of appeal which they may have against the Tribunal’s decision and the right to apply for a review of the Tribunal’s decision.

(5) Where the appeal was against an order made by a justice of the peace under section 20 of the 2000 Act or section 79K of the 1989 Act⁽¹⁾, the Secretary must, as soon as reasonably practicable, send a copy of the document mentioned in paragraph (2) to the justice of the peace who made the order.

(6) Except where a decision is announced at the end of the hearing, the decision shall be treated as having been made on the day on which a copy of the document mentioned in paragraph (2) is sent to the applicant.

(7) The decision shall be entered in the records.

Costs

24.—(1) Subject to regulation 31 and to paragraph (2) below, if in the opinion of the Tribunal a party has acted unreasonably in bringing or conducting the proceedings, it may make an order (a “costs order”) requiring that party (“the paying party”) to make a payment to the other party (“the receiving party”) to cover costs incurred by the receiving party.

(2) Before making a costs order against a party, the Tribunal must—

- (a) invite the receiving party to provide to the Tribunal a schedule of costs incurred by him in respect of the proceedings; and

(1) Section 79K was inserted into the 1989 Act by section 79 of the Care Standards Act 2000 (c. 14).

- (b) invite representations from the paying party and consider any representations he makes, consider whether he is able to comply with such an order and consider any relevant written information which he has provided.
- (3) When making a costs order, the Tribunal must—
 - (a) order the payment of any sum which the parties have agreed should be paid;
 - (b) order the payment of any sum which it considers appropriate having considered any representations the parties may make; or
 - (c) order the payment of the whole or part of the costs incurred by the receiving party in connection with the proceedings as assessed.
- (4) Any costs required by an order under this regulation to be assessed may be assessed in a county court according to such rules applicable to proceedings in a county court as shall be directed in the order.
- (5) A costs order may, by leave of a county court, be enforced in the same manner as a judgment or order of that court to the same effect.

Review of the Tribunal's decision

- 25.—**(1) A party may apply to the President for the Tribunal's decision to be reviewed on the grounds that—
- (a) it was wrongly made as a result of an error on the part of the Tribunal staff;
 - (b) a party, who was entitled to be heard at a hearing but failed to appear or to be represented, had good and sufficient reason for failing to appear; or
 - (c) there was an obvious error in the decision.
- (2) An application under this regulation must—
- (a) be made not later than ten working days after the date on which the decision was sent to the party applying for the Tribunal's decision to be reviewed; and
 - (b) must be in writing stating the grounds in full.
- (3) An application under this regulation may be refused by the President, or by the chairman of the Tribunal which decided the case, if in his opinion it has no reasonable prospect of success.
- (4) Unless an application under this regulation is refused under paragraph (3), it shall be determined, after the parties have had an opportunity to be heard, by the Tribunal which decided the case or, where that is not practicable, by another Tribunal appointed by the President.
- (5) The Tribunal may on its own initiative propose to review its decision on any of the grounds referred to in paragraph (1) above, in which case—
- (a) the Secretary shall serve notice on the parties not later than ten working days after the date on which the decision was sent to them; and
 - (b) the parties shall have an opportunity to be heard.
- (6) If, on the application of a party or on its own initiative the Tribunal is satisfied as to any of the grounds referred to in paragraph (1)—
- (a) it shall order that the whole or a specified part of the decision be reviewed; and
 - (b) it may give directions to be complied with before or after the hearing of the review.
- (7) The power to give directions under paragraph (6) includes a power to give a direction requiring a party to provide such particulars, evidence or statements as may reasonably be required for the determination of the review.

Powers of Tribunal on review

26.—(1) The Tribunal may, having reviewed all or part of a decision—

- (a) set aside or vary the decision by certificate signed by the chairman (or if as a result of his death or incapacity he is unable to sign, or if he ceases to be a member of the chairmen’s panel, by another member of the Tribunal); and
- (b) substitute such other decision as it thinks fit or order a rehearing before the same or a differently constituted Tribunal.

(2) If any decision is set aside or varied (whether as a result of a review or by order of the High Court), the Secretary shall alter the relevant entry in the records to conform to the chairman’s certificate or the order of the High Court and shall notify the parties accordingly.

(3) Any decision of the Tribunal under this regulation may be taken by a majority and the decision shall record whether it was unanimous or taken by a majority.

Publication

27.—(1) The President must make such arrangements as he considers appropriate for the publication of Tribunal decisions.

(2) Decisions may be published electronically.

(3) The decision may be published in an edited form, or subject to any deletions, if the President or the nominated chairman considers it appears appropriate bearing in mind—

- (a) the need to safeguard the welfare of any child or vulnerable adult;
- (b) the need to protect the private life of any person;
- (c) any representations on the matter which either party has provided in writing;
- (d) the effect of any subsisting restricted reporting order; and
- (e) the effect of any direction under regulation 15.