



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2005 Rhif 1398 (Cy.112)

2005 No. 1398 (W.112)

ADDYSG, CYMRU

EDUCATION, WALES

**Rheoliadau Addysg (Trefniadau
Apelau Derbyn) (Cymru)
2005**

**The Education (Admission Appeals
Arrangements) (Wales)
Regulations 2005**

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn yn rhagnodi materion sy'n ymwneud ag apelau sy'n cael eu dwyn o dan adrannau 94 a 95 o Ddeddf Safonau a Fframwaith Ysgolion 1998, fel y'u diwygiwyd gan Ddeddf Addysg 2002.

These Regulations prescribe matters relating to appeals brought under sections 94 and 95 of the School Standards and Framework Act 1998 as amended by the Education Act 2002.

O dan adran 94 rhaid i awdurdod addysg leol, neu yn achos ysgol sefydledig neu ysgol wirfoddol a gynorthwyr, rhaid i gorff llywodraethu wneud trefniadau sy'n galluogi rhieni i apelio yn erbyn penderfyniadau ynghylch derbyn plant i ysgolion, gan gynnwys penderfyniadau sy'n gwrthod caniatâd i blant sydd eisoes wedi'u derbyn i ysgol fynd i chweched dosbarth yr ysgol honno.

Under section 94 arrangements must be made by a local education authority or in the case of a foundation or voluntary aided school, a governing body, enabling parents to appeal against school admission decisions, including decisions refusing permission to children already admitted to a school to enter the school's sixth form.

O dan adran 95 rhaid i awdurdod addysg lleol wneud trefniadau sy'n galluogi corff llywodraethu ysgol gymunedol neu ysgol wirfoddol a reolir apelio yn erbyn penderfyniad yr awdurdod i dderbyn plentyn a oedd, adeg gwneud y penderfyniad, wedi'i wahardd yn barhaol o ddwy neu ragor o ysgolion.

Under section 95 arrangements must be made by a local education authority enabling a governing body of a community or voluntary controlled school to appeal against the authority's decision to admit a child who, at the time the decision was made, has been permanently excluded from two or more schools.

Mae rheoliad 3 o'r Rheoliadau hyn, ac Atodlen 1 iddynt, yn darparu ar gyfer dull cyfansoddi panel apêl pan fydd trefniadau'r apêl yn cael eu gwneud gan awdurdod addysg lleol, corff llywodraethu neu pan fydd trefniadau ar y cyd yn cael eu gwneud gan ddau neu ragor o gyrff llywodraethu, neu'r awdurdod addysg lleol ac un neu ragor o gyrff llywodraethu.

Regulation 3 of, and Schedule 1 to these Regulations make provision as to the manner in which an appeal panel is to be constituted where appeal arrangements are made by a local education authority, a governing body, or where joint arrangements are made by two or more governing bodies, or the local education authority and one or more governing bodies.

Mae rheoliad 4 yn nodi dyletswydd awdurdod derbyn i hysbysebu am aelodau lleyg.

Regulation 4 sets out an admission authority's duty to advertise for lay members.

Mae rheoliad 5 o'r Rheoliadau hyn ac Atodlen 2 iddynt yn rhagnodi'r weithdrefn y mae panel apêl i'w mabwysiadu pan fydd yn gwrandao apêl.

Regulation 5 of, and Schedule 2, to these Regulations prescribe the procedure which an appeal panel is to adopt when hearing an appeal.

Mae rheoliad 6 yn nodi'r materion y mae'n rhaid i'r panel apêl derbyn eu hystyried wrth wrando apêl.

Mae rheoliad 7 yn gwneud darpariaeth ar gyfer talu lwfansau i aelodau o banelau apêl gan yr awdurdod addysg lleol neu'r corff llywodraethu sy'n gyfrifol am wneud y trefniadau mewn perthynas â cholled ariannol, a threuliau teithio a chynhaliaeth.

Mae rheoliad 8 yn gosod dyletswydd ar yr awdurdod addysg lleol neu'r corff llywodraethu sy'n gyfrifol am wneud trefniadau'r apêl i indemnio aelodau'r panel apêl yn erbyn treuliau neu gostau cyfreithiol a dynnwyd mewn perthynas ag unrhyw benderfyniad y maent yn ei wneud.

Regulation 6 sets out the matters that the admission appeal panel is required to take into account when hearing an appeal.

Regulation 7 makes provision for the payment of allowances to appeal panel members by the local education authority or governing body responsible for making the arrangements in respect of financial loss, and travel and subsistence expenses.

Regulation 8 imposes a duty on the local education authority or governing body responsible for making the appeal arrangements to indemnify appeal panel members against expenses or legal costs incurred in respect of any decision they make.

2005 Rhif 1398 (Cy.112)**2005 No. 1398 (W.112)****ADDYSG, CYMRU****EDUCATION, WALES****Rheoliadau Addysg (Trefniadau
Apelau Derbyn) (Cymru)
2005****The Education (Admission Appeals
Arrangements) (Wales)
Regulations 2005***Wedi'u gwneud* 24 Mai 2005*Made* 24 May 2005*Yn dod i rym* 31 Mai 2005*Coming into force* 31 May 2005

Drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adrannau 94(5), (5A), (5C), 95(3), (3A), (3B) a 138(7) o Ddeddf Safonau a Fframwaith Ysgolion 1998(1), a freiniwyd bellach yng Nghynulliad Cenedlaethol Cymru(2) ac ar ôl ymgynghori â'r Cyngor Tribiwnlysoedd yn unol ag adran 8 o Ddeddf Tribiwnlysoedd ac Ymchwiliadau 1992(3) mae Cynulliad Cenedlaethol Cymru yn gwneud y Rheoliadau a ganlyn:

In exercise of the powers conferred on the Secretary of State by sections 94(5), (5A), (5C), 95(3), (3A), (3B) and 138(7) of the Schools Standards and Framework Act 1998(1), now vested in the National Assembly for Wales(2) and after consultation with the Council on Tribunals in accordance with section 8 of the Tribunal and Inquiries Act 1992(3) the National Assembly for Wales makes the following Regulations:

Enwi, cychwyn a chymhwyso

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Addysg (Trefniadau Apelau Derbyn) (Cymru) 2005 a deuant i rym ar 31 Mai 2005.

Title, commencement and application

1.-(1) The title of these Regulations is the Education (Admission Appeals Arrangements) (Wales) Regulations 2005 and they come into force on 31 May 2005.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

(2) These Regulations apply in relation to Wales.

Dehongli

2.-(1) Yn y Rheoliadau hyn -

mae i "aelod lleyg" ("*lay member*") yr ystyr a roddir iddo gan baragraffau 1(4) a 2(4) o Atodlen 1;

ystyr "awdurdod priodol" ("*appropriate authority*") yw'r corff neu'r cyrff sy'n gyfrifol am wneud y trefniadau a ddisgrifir yn rheoliad 3;

Interpretation

2.-(1) In these Regulations -

"the 1972 Act" ("*Deddf 1972*") means the Local Government Act 1972(4);

"the 1998 Act" ("*Deddf 1998*") means the School Standards and Framework Act 1998.

(1) 1998 p.31. Amnewidiwyd is-adrannau (5), (5A), a (5C) o adran 94 gan adran 50 o Ddeddf Addysg 2002 p.32. Amnewidiwyd is-adrannau (3), (3A) a (3B) o adran 95 gan adran 51 o Ddeddf Addysg 2002, a pharagraff 9 o Atodlen 4 iddi. Am y diffiniad o "prescribed" a "regulations" gweler adran 142(1) o Ddeddf 1998.

(2) *Gweler* Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) ac adran 211 o Ddeddf Addysg 2002.

(3) 1992 p.53, diwygiwyd gan baragraff 22 o Atodlen 21 i Ddeddf Addysg 2002.

(1) 1998 c.31. Sub-sections (5), (5A), and (5C) of section 94 were substituted by section 50 of the Education Act 2002 c.32. Sub-sections (3), (3A) and (3B) of section 95 were substituted by section 51 of, and paragraph 9 of Schedule 4 to, the Education Act 2002. For the definition of "prescribed" and "regulations" see section 142(1) of the 1998 Act.

(2) See the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and section 211 of the Education Act 2002.

(3) 1992 c.53, amended by paragraph 22 of Schedule 21 to the Education Act 2002.

(4) 1972 c.70.

ystyr "Deddf 1972" ("*the 1972 Act*") yw Deddf Llywodraeth Leol 1972(1);

ystyr "Deddf 1998" ("*the 1998 Act*") yw Deddf Safonau a Fframwaith Ysgolion 1998;

mae i "diwrnod ysgol" ("*school day*") yr ystyr a roddir iddo gan adran 579(1) o Ddeddf Addysg 1996.(2)

- (2) Mae unrhyw gyfeiriad yn y Rheoliadau hyn at -
- (a) adran â rhif yn gyfeiriad at yr adran honno o Ddeddf 1998, oni ddywedir fel arall;
 - (b) athro neu athrawes yn cynnwys pennaeth.

Cyfansoddiad panelau apêl

3. Pan wneir trefniadau neu drefniadau ar y cyd gan -

- (a) awdurdod addysg lleol o dan adran 94(1) neu (1A)(3);
- (b) corff llywodraethu ysgol sefydledig neu ysgol wirfoddol a gynorthwyir o dan adran 94(2) neu (2A)(4);
- (c) cyrff llywodraethu dwy neu ragor o ysgolion sefydledig neu ysgolion gwirfoddol a gynorthwyir ac a gynhelir gan yr un awdurdod addysg lleol, yn unol ag adran 94(3)(5);
- (ch) awdurdod addysg lleol a chorff llywodraethu neu gyrff llywodraethu un neu ragor o ysgolion sefydledig neu ysgolion gwirfoddol a gynorthwyir ac a gynhelir gan yr awdurdod, yn unol ag adran 94(4)(6);
- (d) awdurdod addysg lleol o dan adran 95(2),

mae apêl i'w wneud i banel apêl a gyfansoddir yn unol â'r paragraff perthnasol yn Atodlen 1.

Dyletswydd i hysbysebu am aelodau lleyg

4.-(1) Yn ystod y cyfnod y cyfeirir ato ym mharagraff (2), rhaid i'r awdurdod priodol sicrhau cyhoeddi hysbyseb ar gyfer aelodau lleyg o banelau apêl a gyfansoddir yn unol ag unrhyw un o baragraffau Atodlen 1.

"appropriate authority" ("*awdurdod priodol*") means the body or the bodies responsible for making the arrangements described in regulation 3;

"lay member" ("*aelod lleyg*") has the meaning given to it by paragraphs 1(4) and 2(4) of Schedule 1;

"school day" ("*diwrnod ysgol*") has the same meaning given to it by section 579(1) of the Education Act 1996.(1)

- (2) Any reference in these Regulations to-
- (a) a numbered section is a reference to that section of the 1998 Act, unless stated otherwise;
 - (b) a teacher includes a headteacher.

Constitution of appeal panels

3. Where arrangements or joint arrangements are made by -

- (a) a local education authority under section 94(1) or (1A)(2);
- (b) the governing body of a foundation or voluntary aided school under section 94(2) or (2A)(3);
- (c) the governing bodies of two or more foundation or voluntary aided schools maintained by the same local education authority, in accordance with section 94(3)(4);
- (d) a local education authority and the governing body or bodies of one or more foundation or voluntary aided schools maintained by the authority, in accordance with section 94(4)(5);
- (e) a local education authority under section 95(2),

an appeal is to be made to an appeal panel constituted in accordance with the relevant paragraph of Schedule 1.

Duty to advertise for lay members

4.-(1) The appropriate authority must during the period referred to in paragraph (2), secure the publication of an advertisement for lay members of appeal panels constituted in accordance with any of the paragraphs of Schedule 1.

(1) 1972 p.70.

(2) 1996 p.56.

(3) Mewnosodwyd adran 94(1A) gan adran 51 o Ddeddf Addysg 2002 a pharagraff 8(1) a (2) o Atodlen 4 iddi.

(4) Mewnosodwyd adran 94(2A) gan adran 51 o Ddeddf Addysg 2002 a pharagraff 8(1) a (3) o Atodlen 4 iddi.

(5) Diwygiwyd adran 94(3) gan adran 51 o Ddeddf Addysg 2002 a pharagraff 8(1) a (4) o Atodlen 4 iddi.

(6) Diwygiwyd adran 94(4) gan adran 51 o Ddeddf Addysg 2002 a pharagraff 8(1) a (5) o Atodlen 4 iddi.

(1) 1996 c.56.

(2) Section 94(1A) was inserted by section 51 of, and paragraph 8(1) and (2) of Schedule 4 to, the Education Act 2002.

(3) Section 94(2A) was inserted by section 51 of, and paragraph 8(1) and (3) of Schedule 4 to, the Education Act 2002.

(4) Section 94(3) was amended by section 51 of, and paragraph 8(1) and (4) of Schedule 4 to, the Education Act 2002.

(5) Section 94(4) was amended by section 51 of, and paragraph 8(1) and (5) of Schedule 4 to, the Education Act 2002.

(2) Rhaid cyhoeddi'r hysbyseb y cyfeirir ati ym mharagraff (1) cyn diwedd y cyfnod tair blynedd a ddechreuodd pan gyhoeddwyd yr hysbyseb ddiwethaf gan yr awdurdod hwnnw ar gyfer aelodau lleyg, panel apêl a gyfansoddwyd yn unol ag Atodlen 24 i Ddeddf 1998, ac ar ôl hynny ym mhob cyfnod tair blynedd ar ôl y dyddiad pan gyhoeddir hysbyseb (neu'r hysbyseb derfynol mewn cyfres o hysbysebion) ddiwethaf gan yr awdurdod hwnnw yn unol â'r rheoliad hwn.

(3) Rhaid i'r hysbyseb y cyfeirir ati ym mharagraff (1) uchod -

- (a) nodi wrth eu henw, eu dosbarth, neu'u disgrifiad cyffredinol, yr ysgolion sy'n cael eu gwasanaethu gan y panelau apêl y mae'r hysbyseb yn cyfeirio atynt;
- (b) cael ei rhoi mewn o leiaf un papur newydd lleol sy'n cylchredeg yn yr ardal lle mae'r ysgolion a nodir yn yr hysbyseb;
- (c) caniatáu cyfnod o 21 o ddiwrnodau o leiaf o ddyddiad cyhoeddi'r hysbyseb ar gyfer atebion.

(4) Cyn penodi unrhyw aelod lleyg, rhaid i'r awdurdod priodol ystyried unrhyw bersonau cymwys sydd wedi gwneud cais i'r awdurdod mewn ymateb i'r hysbyseb ddiweddaraf neu'r gyfres ddiweddaraf o hysbysebion a roddwyd yn unol â pharagraff (1) ac sy'n dangos eu bod yn dymuno cael eu hystyried ar gyfer y penodiad hwnnw.

Y weithdrefn apelio

5. Rhaid gwneud unrhyw apêl o dan drefniadau a bennir yn rheoliad 3 yn unol ag Atodlen 2.

Ystyriaethau perthnasol mewn apelau sy'n cael eu dwyn o dan adrannau 94 a 95 o Ddeddf 1998

6.-(1) Mewn perthynas ag apêl a wneir o dan y trefniadau a bennir yn rheoliad 3(a) i (ch), mae'r materion i'w hystyried gan banel apêl wrth ystyried apêl i gynnwys -

- (a) unrhyw hoff ddewis a fynegir gan yr apelydd mewn perthynas â'r plentyn fel a grybwyllir yn adran 86; a
- (b) y trefniadau ar gyfer derbyn disgyblion ac a gyhoeddir gan yr awdurdod addysg lleol neu'r corff llywodraethu yn unol â rheoliadau a wneir o dan adran 92(1).

(2) Pan wnaethpwyd y penderfyniad o dan apêl ar y sail y byddai rhagfarn o'r math y cyfeirir ati yn adran 86(3)(a) yn codi fel a grybwyllir yn is-adran (4) o'r adran honno, caiff panel apêl benderfynu bod lle i'w gynnig i blentyn dim ond os yw'r panel yn cael ei fodloni -

(1) O.S. 1994/1303. Amnewidiwyd adran 92 gan baragraff 7 o Atodlen 4 i Ddeddf Addysg 2002.

(2) The advertisement referred to in paragraph (1) must be published before the end of the three year period starting when the last advertisement was published by that authority for lay members of an appeal panel constituted in accordance with Schedule 24 to the 1998 Act, and thereafter in every three year period following the date upon which an advertisement (or the final advertisement of a series of advertisements) was last published by that authority in accordance with this regulation.

(3) The advertisement referred to in paragraph (1) above must -

- (a) identify by name, class, or general description, the schools served by the appeal panels to which the advertisement refers;
- (b) be placed in at least one local newspaper circulating in the area in which the schools identified in the advertisement are situated;
- (c) allow a period of at least 21 days from the date of publication of the advertisement for replies.

(4) Before appointing any lay member the appropriate authority must consider any eligible persons who have applied to the authority in response to the most recent advertisement or series of advertisements placed in pursuance of paragraph (1) indicating that they wish to be considered for such appointment.

Procedure for appeals

5. An appeal under arrangements specified in regulation 3 must be made in accordance with Schedule 2.

Relevant considerations in appeals brought under sections 94 and 95 of the 1998 Act

6.-(1) In relation to an appeal made under the arrangements specified in regulation 3(a) to (d), the matters to be taken into account by an appeal panel, in considering an appeal, are to include -

- (a) any preference expressed by the appellant in respect of the child as mentioned in section 86; and
- (b) the arrangements for the admission of pupils published by the local education authority or the governing body in accordance with regulations made under section 92(1).

(2) Where the decision under appeal was made on the ground that prejudice of the kind referred to in section 86(3)(a) would arise as mentioned in subsection (4) of that section, an appeal panel may determine that a place is to be offered to the child only if the panel is satisfied -

(1) S.I. 1994/1303. Section 92 was substituted by paragraph 7 of Schedule 4 to the Education Act 2002.

- (a) nad oedd y penderfyniad yn un y byddai awdurdod derbyn rhesymol yn ei wneud o dan amgylchiadau'r achos; neu
- (b) y byddai'r plentyn wedi cael cynnig lle petai'r trefniadau derbyn (fel a gyhoeddir yn unol â rheoliadau a wneir o dan adran 92) wedi cael eu gweithredu'n gywir.

(3) Mewn perthynas ag apêl a wneir o dan drefniadau a bennir yn rheoliad 3(d), wrth ystyried apêl rhaid i banel apêl ystyried -

- (a) y rhesymau dros benderfyniad yr awdurdod addysg lleol y dylai'r plentyn dan sylw gael ei dderbyn; a
- (b) unrhyw resymau a gyflwynir gan y corff llywodraethu pam y byddai derbyn y plentyn yn amhriodol.

Talu lwfansau

7.-(1) Mae adran 173(4) o Ddeddf 1972(1), yn gymwys i unrhyw aelod o banel apêl a gyfansoddir yn unol ag unrhyw un o baragraffau Atodlen 1, at ddibenion, ei gwneud yn ofynnol i'r awdurdod addysg lleol perthnasol i dalu lwfans colled ariannol i'r aelod hwnnw, ac yn yr adran honno fel y mae'n gymwys, mae'r cyfeiriad at ddyletswydd wedi'i chymeradwyo i'w ddarllen fel cyfeiriad at fod yn bresennol mewn cyfarfod o banel apêl.

(2) Mae adran 174(1) o Ddeddf 1972(2) yn gymwys mewn perthynas â phanel apêl a gyfansoddir yn unol ag unrhyw un o baragraffau Atodlen 1, ac yn yr adran honno fel y mae'n gymwys, mae'r cyfeiriad at daliadau ar gyfraddau a benderfynir gan y corff dan sylw i'w ddarllen fel cyfeiriad at daliadau ar gyfraddau a benderfynir -

- (a) gan yr awdurdod, yn achos panel apêl a gyfansoddir o dan drefniadau y cyfeirir atynt yn rheoliad 3(a), (ch) neu (d);
- (b) fel arall gan gorff llywodraethu neu gyrff llywodraethu'r ysgol neu'r ysgolion dan sylw.

Indemnïo

8.-(1) Rhaid i'r awdurdod priodol indemnïo aelodau unrhyw banel apêl a gyfansoddir at ddibenion y trefniadau a wnaed ganddo, fel a bennir yn rheoliad 3, yn erbyn unrhyw gostau a threuliau cyfreithiol rhesymol a dynnir gan yr aelodau hynny mewn cysylltiad ag unrhyw benderfyniad neu gam a gymerir ganddynt yn ddiwyll yn unol â'u swyddogaethau fel aelodau o'r panel hwnnw.

(2) Pan gyfansoddir un o'r panelau hynny gan -

- (a) that the decision was not one which a reasonable admission authority would make in the circumstances of the case; or
- (b) that the child would have been offered a place if the admission arrangements (as published in accordance with regulations made under section 92) had been properly implemented.

(3) In relation to an appeal made under arrangements specified in regulation 3(e), an appeal panel in considering an appeal must have regard to -

- (a) the reasons for the local education authority's decision that the child in question should be admitted; and
- (b) any reasons put forward by the governing body as to why the child's admission would be inappropriate.

Payment of allowances

7.-(1) Section 173(4) of the 1972 Act(1), is to apply to any member of an appeal panel constituted in accordance with any of the paragraphs of Schedule 1, for the purpose of requiring the relevant local education authority to pay financial loss allowance to that member, and in that section as it so applies the reference to an approved duty is to be read as a reference to attendance at a meeting of an appeal panel.

(2) Section 174(1) of the 1972 Act(2) is to apply in relation to an appeal panel constituted in accordance with any of the paragraphs of Schedule 1, and in that section as it so applies, the reference to payments at rates determined by the body in question is to be read as a reference to payments at rates determined -

- (a) by the authority, in the case of an appeal panel constituted under arrangements referred to in regulation 3(a), (d) or (e);
- (b) otherwise by the governing body or bodies of the school or schools in question.

Indemnity

8.-(1) The appropriate authority must indemnify the members of any appeal panel constituted for the purposes of the arrangements which it has made, as specified in regulation 3, against any reasonable legal costs and expenses reasonably incurred by those members in connection with any decision or action taken by them in good faith in pursuance of their functions as members of that panel.

(2) Where any such panel is constituted by -

(1) Diwygiwyd adran 173(4) gan adran 194 o Ddeddf Llywodraeth Leol a Thai 1989 p.42 a pharagraff 26 o Atodlen 11 iddi.

(2) Diwygiwyd adran 174(1) gan adran 25 o Ddeddf Llywodraeth Leol, Cynllunio a Thir 1980 p.65.

(1) Section 173(4) was amended by section 194 of, and paragraph 26 of Schedule 11 to, the Local Government and Housing Act 1989 c. 42.

(2) Section 174(1) was amended by section 25 of the Local Government, Planning and Land Act 1980 c.65.

- (a) cyrff llywodraethu dwy neu ragor o ysgolion sefydledig neu ysgolion gwirfoddol a gynorthwyir ac a gynhelir gan yr un awdurdod addysg lleol; neu
- (b) awdurdod addysg lleol a chorff llywodraethu neu gyrff llywodraethu un neu ragor o ysgolion sefydledig neu ysgolion gwirfoddol a gynorthwyir ac a gynhelir gan yr awdurdod,

mae unrhyw rwymedigaeth sy'n codi o dan baragraff (1) yn rhwymedigaeth cyd ac unigol ar y cyrff sy'n gwneud y trefniadau ar y cyd oni bai bod trefniant blaenorol wedi'i gytuno fel arall yn ysgrifenedig rhwng y cyrff hynny.

- (a) the governing bodies of two or more foundation or voluntary aided schools maintained by the same local education authority; or
- (b) a local education authority and the governing body or bodies of one or more foundation or voluntary aided schools maintained by the authority,

any liability arising under paragraph (1) is to be a joint and several liability of the bodies by whom the joint arrangements are made unless otherwise previously agreed in writing between those bodies.

Llofnodwyd ar ran y Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(1).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(1).

24 Mai 2005

24 May 2005

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

(1) 1998 p.38.

(1) 1998 c.38.

CYFANSODDIAD PANELAU APÊL

CONSTITUTION OF APPEAL PANELS

Trefniadau a wnaed gan awdurdod addysg lleol

1.-(1) Pan fydd y trefniadau yn drefniadau a bennir yn rheoliad 3(a), cyfansoddir panel apêl gan dri neu bum aelod a benodwyd gan awdurdod addysg lleol o blith-

- (a) personau sy'n gymwys i fod yn aelodau lleog; a
- (b) personau sydd â phrofiad mewn addysg neu sy'n gyfarwydd â chyflwr addysg yn ardal yr awdurdod; neu
- (c) personau sy'n rhieni i ddisgyblion cofrestredig mewn ysgol.

(2) O blith aelodau panel apêl -

- (a) rhaid i o leiaf un fod yn berson sy'n gymwys i fod yn aelod lleog ac a benodir felly; a
- (b) rhaid i o leiaf un fod yn berson sy'n dod o fewn is-baragraff (1)(b) neu (1)(c).

(3) Rhaid i'r awdurdod addysg lleol benodi un aelod o'r panel i ymddwyn fel cadeirydd.

(4) At ddibenion y paragraff hwn mae person yn gymwys i fod yn aelod lleog os yw ef yn berson heb brofiad personol o reoli unrhyw ysgol neu o ddarparu addysg mewn unrhyw ysgol (gan ddiystyru unrhyw brofiad fel llywodraethwr neu mewn unrhyw swydd wirfoddol arall).

(5) Caniateir i'r awdurdod benodi digon o bersonau o dan y paragraff hwn i alluogi dau neu ragor o banelau apêl eistedd yr yn pryd.

(6) Ni chaiff neb fod yn aelod o banel apêl os yw'n anghymwys yn rhinwedd is-baragraff (7).

(7) Mae'r personau a ganlyn yn anghymwys i fod yn aelodau o banel apêl -

- (a) unrhyw aelod o'r awdurdod neu o gorff llywodraethu'r ysgol dan sylw;
- (b) unrhyw berson a gyflogir gan yr awdurdod neu gan y corff llywodraethu neu gan y cyrff llywodraethu, heblaw person a gyflogir yn athro neu'n athrawes;
- (c) unrhyw berson sydd â, neu a fu ar unrhyw adeg ag, unrhyw gysylltiad â -
 - (i) yr awdurdod neu'r ysgol, neu
 - (ii) unrhyw berson o fewn paragraff (b)

o fath y gellid tybio'n rhesymol ei fod yn codi

Arrangements made by a local education authority

1.-(1) Where the arrangements are those specified in regulation 3(a), an appeal panel is to consist of three or five members appointed by a local education authority from -

- (a) persons who are eligible to be lay members; and
- (b) persons who have experience in education or who are acquainted with educational conditions in the area of the authority; or
- (c) persons who are parents of registered pupils at a school.

(2) Of the members of an appeal panel -

- (a) at least one must be a person who is eligible to be a lay member and is appointed as such; and
- (b) at least one must be a person falling within sub-paragraph (1)(b) or (1)(c).

(3) The local education authority must appoint one member of the panel to act as chair.

(4) For the purposes of this paragraph a person is eligible to be a lay member if he or she is a person without personal experience in the management of any school or the provision of education in any school (disregarding any such experience as a governor or in any other voluntary capacity).

(5) Sufficient persons may be appointed by the authority under this paragraph to enable two or more appeal panels to sit at the same time.

(6) No person is to be a member of an appeal panel if he or she is disqualified by virtue of sub-paragraph (7).

(7) The following persons are disqualified from membership of an appeal panel -

- (a) any member of the authority or governing body of the school in question;
- (b) any person employed by the authority or the governing body or governing bodies, other than a person employed as a teacher;
- (c) any person who has, or at any time has had, any connection with -
 - (i) the authority or the school, or
 - (ii) any person within paragraph (b)

of a kind which might reasonably be taken to raise

amheuan am ei allu i weithredu'n ddiuedd mewn perthynas â'r awdurdod neu'r ysgol.

(8) Rhaid peidio â thybio bod person a gyflogir yn athro neu'n athrawes gan yr awdurdod, oherwydd y gyflogaeth honno'n unig â chysylltiad â'r awdurdod fel a grybwyllir yn is-baragraph (7)(c).

(9) Ni chaiff person fod yn aelod o banel apêl er mwyn ystyried apêl yn erbyn penderfyniad os oedd y person hwnnw ymhlith y rheini a wnaeth y penderfyniad neu ymhlith y rheini a gymerodd ran yn y trafodaethau ynghylch gwneud y penderfyniad ai peidio.

(10) Ni chaiff person sy'n athro neu'n athrawes mewn ysgol fod yn aelod o banel apêl er mwyn ystyried apêl sy'n cwestiynu a ddylid derbyn y plentyn i'r ysgol honno ai peidio.

(11) Os bydd unrhyw un o'r aelodau, unrhyw adeg ar ôl i banel apêl sydd wedi'i gyfansoddi ddechrau ystyried apêl -

- (a) yn marw; neu
- (b) oherwydd salwch, yn methu â pharhau yn aelod; neu
- (c) oherwydd bod amheuan rhesymol yn codi am ei allu i weithredu'n ddiuedd, yn methu â pharhau yn aelod,

caiff y panel barhau i ystyried yr apêl a dod i benderfyniad yn ei chylch cyn belled nad yw nifer yr aelodau sy'n weddill yn llai na thri a bod gofynion is-baragraff (2) uchod wedi'u bodloni.

Trefniadau a wnaed gan gorff llywodraethu

2.-(1) Pan fydd y trefniadau yn drefniadau a bennir yn rheoliad 3(b), cyfansoddir panel apêl gan dri neu bum aelod a benodwyd gan gorff llywodraethu o blith -

- (a) personau sy'n gymwys i fod yn aelodau lleig; a
- (b) personau sydd â phrofiad mewn addysg neu sy'n gyfarwydd â chyflwr addysg yn ardal yr awdurdod; neu
- (c) personau sy'n rhieni i ddisgyblion cofrestredig mewn ysgol.

(2) O blith aelodau panel apêl -

- (a) rhaid i o leiaf un fod yn berson sy'n gymwys i fod yn aelod lleig ac a benodir felly; a
- (b) rhaid i o leiaf un fod yn berson sy'n dod o fewn is-baragraff (1)(b) neu (1)(c).

(3) Rhaid i'r corff llywodraethu penodi un aelod o'r panel i ymddwyn fel cadeirydd.

(4) At ddibenion y paragraff hwn mae person yn gymwys i fod yn aelod lleig os yw ef yn berson heb brofiad personol o reoli unrhyw ysgol neu o ddarparu

doubts about his or her ability to act impartially in relation to the authority or the school.

(8) A person employed as a teacher by the authority is not to be taken, by reason only of that employment, to have such a connection with the authority as is mentioned in sub-paragraph (7)(c).

(9) A person is not to be a member of an appeal panel for the consideration of an appeal against a decision if he or she was among those who made the decision or took part in discussions as to whether the decision should be made.

(10) A person who is a teacher at a school is not to be a member of an appeal panel for the consideration of an appeal involving a question whether a child is to be admitted to that school.

(11) Where, at any time after an appeal panel has begun to consider an appeal, any of the members -

- (a) dies; or
- (b) becomes unable through illness to continue as a member; or
- (c) becomes unable to continue as a member because doubts may reasonably be raised about his or her ability to act impartially,

the panel may continue with their consideration and determination of the appeal so long as the number of remaining members is not less than three and the requirements of sub-paragraph (2) above are satisfied.

Arrangements made by a governing body

2.-(1) Where the arrangements are those specified in regulation 3(b), a panel is to consist of three or five members appointed by the governing body from -

- (a) persons who are eligible to be lay members; and
- (b) persons who have experience in education or who are acquainted with educational conditions in the area of the authority; or
- (c) persons who are parents of registered pupils at a school.

(2) Of the members of an appeal panel -

- (a) at least one must be a person who is eligible to be a lay member and is appointed as such; and
- (b) at least one must be a person falling within sub-paragraph (1)(b) or (1)(c).

(3) The governing body must appoint one member of the panel to act as chair.

(4) For the purposes of this paragraph a person is eligible to be a lay member if he or she is a person without personal experience in the management of any

addysg mewn unrhyw ysgol (gan ddiystyru unrhyw brofiad fel llywodraethwr neu unrhyw brofiad mewn unrhyw swydd wirfoddol arall).

(5) Caniateir i'r corff llywodraethu benodi digon o bersonau o dan y paragraff hwn i alluogi dau neu ragor o banelau apêl eistedd yr yn pryd.

(6) Ni chaiff neb fod yn aelod o banel apêl os yw'n anghymwys yn rhinwedd is-paragraff (7).

(7) Mae'r personau a ganlyn yn anghymwys i fod yn aelodau o banel apêl -

- (a) unrhyw aelod o'r awdurdod addysg lleol sy'n cynnal yr ysgol neu unrhyw aelod o'r corff llywodraethu;
- (b) unrhyw berson a gyflogir gan yr awdurdod neu gan y corff llywodraethu heblaw person a gyflogir yn athro neu'n athrawes;
- (c) unrhyw berson sydd â, neu a fu ar unrhyw adeg gysylltiad â -
 - (i) yr awdurdod neu'r ysgol, neu
 - (ii) unrhyw berson o fewn paragraff (b),

o fath y gellid tybio'n rhesymol ei fod yn codi amheuan am ei allu i weithredu'n ddiduedd mewn perthynas â'r awdurdod neu'r ysgol.

(8) Rhaid peidio â thybio bod person a gyflogir yn athro neu'n athrawes gan yr awdurdod, oherwydd y gyflogaeth honno'n unig, â chysylltiad â'r awdurdod fel a grybwyllir yn is-paragraff (7)(c).

(9) Ni chaiff person sy'n athro neu'n athrawes mewn ysgol fod yn aelod o banel apêl er mwyn ystyried apêl sy'n cwestiynu a ddylid derbyn y plentyn i'r ysgol honno ai peidio.

(10) Os bydd unrhyw un o'r aelodau, unrhyw adeg ar ôl i banel apêl sydd wedi'i gyfansoddi ddechrau ystyried apêl -

- (a) yn marw; neu
- (b) oherwydd salwch, yn methu â pharhau yn aelod; neu
- (c) oherwydd bod amheuan rhesymol yn codi am ei allu i weithredu'n ddiduedd, yn methu â pharhau yn aelod,

caiff y panel barhau i ystyried yr apêl a dod i benderfyniad yn ei chylch cyn belled nad yw nifer yr aelodau sy'n weddill yn llai na thri a bod gofynion is-paragraff (2) uchod wedi'u bodloni.

Trefniadau ar y cyd gan ddau neu ragor o gyrrff llywodraethu

3.-(1) Pan fydd trefniadau yn drefniadau a bennir yn rheoliad 3(c), mae paragraff 2 o'r Atodlen hon yn gymwys fel petai -

school or the provision of education in any school (disregarding any such experience as a governor or in any other voluntary capacity).

(5) Sufficient persons may be appointed by the governing body under this paragraph to enable two or more appeal panels to sit at the same time.

(6) No person is to be a member of an appeal panel if he or she is disqualified by virtue of sub-paragraph (7).

(7) The following persons are disqualified from membership of an appeal panel -

- (a) any member of the local education authority by whom the school is maintained or of the governing body;
- (b) any person employed by the authority or the governing body, other than a person employed as a teacher;
- (c) any person who has, or at any time has had, any connection with -
 - (i) the authority or the school, or
 - (ii) any person within paragraph (b),

of a kind which might reasonably be taken to raise doubts about his or her ability to act impartially in relation to the authority or the school.

(8) A person employed as a teacher by the authority is not to be taken, by reason only of that employment, to have such a connection with the authority as is mentioned in sub-paragraph (7)(c).

(9) A person who is a teacher at a school is not to be a member of an appeal panel for the consideration of an appeal involving a question whether a child is to be admitted to that school.

(10) Where, at any time after an appeal panel has begun to consider an appeal, any of the members -

- (a) dies; or
- (b) becomes unable through illness to continue as a member; or
- (c) becomes unable to continue as a member because doubts may reasonably be raised about his or her ability to act impartially,

the panel may continue with their consideration and determination of the appeal so long as the number of remaining members is not less than three and the requirements of sub-paragraph (2) above are satisfied.

Joint arrangements by two or more governing bodies

3.-(1) Where arrangements are those specified in regulation 3(c), paragraph 2 of this Schedule is to apply as if-

- (a) (ac eithrio yn is-baragraff (7)) unrhyw gyfeiriad at y corff llywodraethu yn gyfeiriad at gyrff llywodraethu y ddwy ysgol neu'r ysgolion i gyd; a
- (b) yn is-baragraff (7), unrhyw gyfeiriad at gorff llywodraethu'r ysgol dan sylw neu at yr ysgol honno yn gyfeiriad at unrhyw un o'r gyrff llywodraethu hynny neu at unrhyw un o'r ysgolion hynny.

- (a) (except in sub-paragraph (7)) any reference to the governing body were a reference to the governing bodies of both or all the schools; and
- (b) in sub-paragraph (7), any reference to the governing body of the school in question or to that school were a reference to any of those governing bodies or to any of those schools.

Trefniadau ar y cyd gan awdurdod addysg lleol ac un neu ragor o gyrff llywodraethu

4. Pan fydd y trefniadau yn drefniadau a bennir yn rheoliad 3(ch), bydd paragraff 1 o'r Atodlen hon yn gymwys mewn perthynas â'r trefniadau hynny fel y mae'n gymwys mewn perthynas â threfniadau a wneir gan awdurdod addysg lleol ac y cyfeirir atynt yn rheoliad 3(a) ond fel petai yn is-baragraff (7) unrhyw gyfeiriad at gorff llywodraethu'r ysgol dan sylw neu at yr ysgol honno yn gyfeiriad at gorff llywodraethu unrhyw ysgol y mae'r trefniadau yn ymwneud â hi neu unrhyw ysgol o'r fath.

Joint arrangements by a local education authority and one or more governing body

4. Where the arrangements are those specified in regulation 3(d), paragraph 1 of this Schedule is to apply in relation to those arrangements as it applies in relation to arrangements made by a local education authority such as are referred to in regulation 3(a) but as if in sub-paragraph (7) any reference to the governing body of the school in question or to that school were a reference to the governing body of any school to which the arrangements relate or to any such school.

Apelau gan gyrff llywodraethu o dan adran 95

5.-(1) Yn ddarostyngedig i is-baragraff (2), pan fydd y trefniadau yn drefniadau a bennir yn rheoliad 3(d), bydd paragraff 1 o'r Atodlen hon yn effeithiol fel y bydd yn effeithiol pan fydd y trefniadau yn drefniadau a bennir yn rheoliad 3(a).

Appeals by a governing body under section 95

5.-(1) Subject to sub-paragraph (2), where the arrangements are those specified in regulation 3(e), paragraph 1 of this Schedule is to have effect as it has effect where the arrangements are those specified in regulation 3(a).

(2) Ni chaiff neb fod yn aelod o banel apêl er mwyn ystyried apêl o dan adran 95(2) os bu i unrhyw raddau â rhan mewn ystyried o'r blaen a ddylai'r plentyn dan sylw gael ei dderbyn yn ôl ai peidio i unrhyw ysgol y gwaharddwyd ef yn barhaol ohoni ar unrhyw adeg, neu mewn unrhyw apêl blaenorol sy'n ymwneud â'r plentyn o dan adran 95(2).

(2) A person is not to be a member of an appeal panel for the consideration of an appeal under section 95(2) if he or she has to any extent been involved in any previous consideration of the question whether the child in question should or should not be reinstated at any school from which he or she has at any time been permanently excluded, or in any previous appeal relating to the child under section 95(2).

GWEITHDREFN APÊL

PROCEDURE ON APPEAL

Apelau a wneir yn unol ag adran 94

1.-(1) Yn y paragraff hwn ystyr "apêl" yw apêl a wneir o dan y trefniadau a bennir yn rheoliad 3(a) i (ch).

(2) Rhaid i fanylion y trefniadau ar gyfer gwneud apêl, gan gynnwys yr wybodaeth sy'n cynnwys y manylion cyswllt ar gyfer pa gorff neu gyrff bynnag sy'n gyfrifol am y trefniadau hynny, gael eu rhoi mewn unrhyw ddogfen sy'n cynnwys hysbysiad i rieni am -

- (a) penderfyniad y cyfeirir ato yn adran 94(1)(b) a (2) ac sy'n gwrthod derbyn eu plentyn i ysgol y mae'r rhieni wedi mynegi mai hi yw eu hoff ddewis yn unol â'r trefniadau a wneir o dan adran 86(1);
- (b) penderfyniad y cyfeirir ato yn adran 94(1)(a) o ran yr ysgol y mae addysg i'w darparu i'w plentyn ynddi; neu
- (c) penderfyniad y cyfeirir ato yn adran 94(1A) neu (2A) ac sy'n gwrthod caniatâd i blentyn sydd eisoes wedi'i dderbyn i ysgol i fynd i chweched dosbarth yr ysgol honno.

(3) Rhaid i apêl fod yn ysgrifenedig a rhaid iddi nodi'r sail dros ei gwneud.

(4) Rhaid i banel apêl roi cyfle i apelydd ymddangos a gwneud sylwadau llafar, a chaniatáu iddo gael ei hebrwng gan gyfaill neu gael ei gynrychioli.

(5) Rhaid i apêl gael ei gwrando'n breifat ac eithrio pan fydd y corff neu'r cyrff sydd wedi gwneud y trefniadau o dan adran 94 o Ddeddf 1998 yn cyfarwyddo fel arall, ond -

- (a) os yw'r panel yn cyfarwyddo hynny, caiff un aelod o'r awdurdod addysg lleol fod yn bresennol, fel sylwedydd, mewn unrhyw wrandawriad apêl gan y panel apêl a gyfansoddir yn unol â pharagraff 1 o Atodlen 1;
- (b) os yw'r panel yn cyfarwyddo hynny, caiff un aelod o gorff llywodraethu'r ysgol dan sylw fod yn bresennol, fel sylwedydd, mewn unrhyw wrandawriad apêl gan banel apêl a gyfansoddir yn unol â pharagraff 1 neu 2 o Atodlen 1 (neu yn unol â pharagraff 2 fel y mae'n gymwys yn rhinwedd paragraff 3 o'r Atodlen honno); a

Appeals made pursuant to section 94

1.-(1) In this paragraph "appeal" means an appeal made under the arrangements specified in regulation 3(a) to (d).

(2) Particulars of the arrangements for making an appeal, including information containing the contact details for whichever body or bodies are responsible for those arrangements, must be set out in any document containing notification to parents of -

- (a) a decision referred to in section 94(1)(b) and (2) refusing their child admission to a school for which the parents have expressed a preference in accordance with the arrangements made under section 86(1);
- (b) a decision referred to in section 94(1)(a) as to the school at which education is to be provided for their child; or
- (c) a decision referred to in section 94(1A) or (2A) refusing permission for a child who has already been admitted to a school to enter the school's sixth form.

(3) An appeal must be by notice in writing setting out the grounds on which it is made.

(4) An appeal panel must give the appellant an opportunity of appearing and making oral representations, and allow him or her to be accompanied by a friend or to be represented.

(5) An appeal must be heard in private except where the body or bodies by whom the arrangements under section 94 of the 1998 Act are made direct otherwise; but -

- (a) if the panel so directs, one member of the local education authority may attend, as an observer, any hearing of an appeal by an appeal panel constituted in accordance with paragraph 1 of Schedule 1;
- (b) if the panel so directs, one member of the governing body of the school in question may attend, as an observer, any hearing of an appeal by an appeal panel constituted in accordance with paragraph 1 or 2 of Schedule 1 (or in accordance with paragraph 2 as it applies by virtue of paragraph 3 of that Schedule); and

(c) caiff un aelod o'r Cyngor Tribiwnlysoedd fod yn bresennol, fel sylwedydd, mewn unrhyw gyfarfod o unrhyw banel apêl pan fydd apêl yn cael ei hystyried.

(6) At ddibenion is-baragraff (5), mae apêl at banel apêl a gyfansoddir yn unol â pharagraff 1 o Atodlen 1, fel y mae'n gymwys yn rhinwedd paragraff 4 o'r Atodlen honno i'w thrin -

- (i) fel apêl at banel apêl a gyfansoddir yn unol â pharagraff 1 o'r Atodlen honno os yw'n ymwneud ag ysgol gymunedol neu ysgol wirfoddol a reolir, a
- (ii) fel apêl at banel apêl a gyfansoddir yn unol â pharagraff 2 o'r Atodlen honno, os yw'n ymwneud ag ysgol sefydledig neu ysgol wirfoddol a gynorthwyr.

(7) Os bydd aelodau'r panel apêl yn anghytuno â'i gilydd, bydd yr apêl sy'n cael ei hystyried i'w phenderfynu gan fwyaftrif syml o'r pleidleisiau a fwriwyd ac, os bydd nifer y pleidleisiau yn gyfartal, bydd gan gadeirydd y panel ail bleidlais neu bleidlais fwrw.

(8) Rhaid i'r panel apêl roi gwybod am ei benderfyniad a'r sail dros ei gwneud yn ysgrifenedig i -

- (a) yr apelydd a'r awdurdod addysg lleol; a
- (b) yn achos apêl i banel apêl a gyfansoddir yn unol â pharagraff 2 o Atodlen 1, (neu yn unol â'r paragraff hwnnw fel y mae'n gymwys yn rhinwedd paragraff 3 o'r Atodlen honno), i'r corff llywodraethu a wnaeth y penderfyniad yr apeliwyd yn ei erbyn neu'r corff llywodraethu yr apeliwyd yn erbyn y penderfyniad a wnaed ar ei ran.

(9) At ddibenion is-baragraff (8), bydd apêl i banel apêl a gyfansoddir yn unol â pharagraff 1 o Atodlen 1, fel y mae'n gymwys yn rhinwedd paragraff 4 o'r Atodlen honno, i'w thrin fel apêl i banel apêl a gyfansoddir yn unol â pharagraff 2 o'r Atodlen honno, os bydd yn ymwneud ag ysgol sefydledig neu ysgol wirfoddol a gynorthwyr.

(10) Yn ddarostyngedig i is-baragraffau (2) i (9), bydd pob mater sy'n ymwneud â'r weithdrefn apelio, gan gynnwys y cyfnod y maent i'w dwyn o'i fewn, i'w penderfynu gan y corff neu'r cyrff sy'n gwneud y trefniadau o dan adran 94.

Apelau a wneir yn unol ag adran 95 o Ddeddf 1998

2.-(1) Yn y paragraff hwn ystyr "apêl" yw apêl a wneir o dan y trefniadau a bennir yn rheoliad 3(d).

(c) one member of the Council on Tribunals may attend, as an observer, any meeting of any appeal panel at which an appeal is considered.

(6) For the purposes of sub-paragraph (5), an appeal to an appeal panel constituted in accordance with paragraph 1 of Schedule 1, as it applies by virtue of paragraph 4 of that Schedule is to be treated -

- (i) as an appeal to an appeal panel constituted in accordance with paragraph 1 of that Schedule if it relates to a community or voluntary controlled school, and
- (ii) as an appeal to an appeal panel constituted in accordance with paragraph 2 of that Schedule, if it relates to a foundation or voluntary aided school.

(7) In the event of a disagreement between the members of an appeal panel, the appeal under consideration is to be decided by a simple majority of the votes cast and, in the case of an equality of votes, the chair of the panel is to have a second or casting vote.

(8) The decision of an appeal panel and the grounds on which it is made must be communicated by the panel in writing to -

- (a) the appellant and the local education authority; and
- (b) in the case of an appeal to an appeal panel constituted in accordance with paragraph 2 of Schedule 1, (or in accordance with that paragraph as it applies by virtue of paragraph 3 of that Schedule), to the governing body by whom or on whose behalf the decision appealed against was made.

(9) For the purposes of sub-paragraph (8), an appeal to an appeal panel constituted in accordance with paragraph 1 of Schedule 1, as it applies by virtue of paragraph 4 of that Schedule, is to be treated as an appeal to an appeal panel constituted in accordance with paragraph 2 of that Schedule, if it relates to a foundation or voluntary aided school.

(10) Subject to sub-paragraphs (2) to (9), all matters relating to the procedure on appeals, including the time within which they are to be brought, are to be determined by the body or bodies by whom the arrangements under section 94 are made.

Appeals made pursuant to section 95 of the 1998 Act

2.-(1) In this paragraph "appeal" means an appeal made under the arrangements specified in regulation 3(e).

(2) Pan fydd unrhyw benderfyniad a grybwyllir yn adran 95(2) wedi'i wneud gan yr awdurdod addysg lleol neu ar ei ran, rhaid i'r awdurdod hysbysu corff llyworaethu'r ysgol yn ysgrifenedig am -

- (a) y penderfyniad hwnnw; a
- (b) hawl y corff llywodraethu i apelio yn erbyn y penderfyniad yn unol ag is-baragraff (3).

(3) Rhaid i unrhyw apêl gan y corff llywodraethu yn erbyn unrhyw benderfyniad cael ei gwneud dim hwyrach na'r pymthegfed diwrnod ysgol ar ôl y diwrnod pan hysbysir ef o dan is-baragraff (2).

(4) Rhaid i apêl fod drwy hysbysiad ysgrifenedig sy'n nodi'r sail dros ei gwneud.

(5) Rhaid i'r panel apêl gyfarfod i ystyried apêl ar unrhyw ddyddiad y bydd yr awdurdod addysg lleol yn ei benderfynu ond rhaid i'r dyddiad a benderfynir beidio â bod ar ôl y pymthegfed diwrnod ysgol ar ôl y diwrnod pan fydd yr awdurdod hwnnw yn derbyn yr hysbysiad y cyfeirir ato o dan hysbysiad is-baragraff (4).

(6) Ar apêl rhaid i'r panel ganiatáu -

- (a) i'r awdurdod addysg lleol a'r corff llywodraethu wneud sylwadau ysgrifenedig;
- (b) i un o swyddogion yr awdurdod a enwebir gan yr awdurdod, a llywodraethwr a enwebir gan y corff llywodraethu, ymddangos a gwneud sylwadau llafar; ac
- (c) i'r corff llywodraethu gael ei gynrychioli.

(7) Rhaid i apelau gael eu gwranddo'n breifat ac eithrio pan fydd yr awdurdod addysg lleol yn cyfarwyddo fel arall; ond -

- (a) os yw'r panel yn cyfarwyddo hynny, caiff un aelod o'r awdurdod addysg lleol fod yn bresennol, fel sylwedydd, mewn unrhyw wrandawriad o apêl gan banel apêl; a
- (b) caiff un aelod o'r Cyngor Tribiwnlysoedd fod yn bresennol, fel sylwedydd, mewn unrhyw gyfarfod o banel apêl sy'n ystyried apêl.

(8) Caniateir cyfuno dwy neu ragor o apelau ac ymdrin â hwy yn yr un achos os yw'r panel apêl yn ystyried bod hynny'n hwylus oherwydd mai'r un rhai yw'r materion a godir gan yr apelau neu oherwydd eu bod yn gysylltiedig.

(9) Os bydd aelodau panel apêl yn anghytuno â'i gilydd, bydd yr apêl sy'n cael ei hystyried i'w phenderfynu gan fwyafrif syml o'r pleidleisiau a fwrwyd ac, os bydd nifer y pleidleisiau yn gyfartal, bydd gan gadeirydd y panel ail bleidlais neu bleidlais fwrw.

(2) Where any such decision as is mentioned in section 95(2) is made by or on behalf of the local education authority, the authority must give the governing body of the school notice in writing -

- (a) of that decision; and
- (b) of the governing body's right to appeal against the decision in accordance with sub-paragraph (3).

(3) An appeal by the governing body against any such decision must be made not later than the fifteenth school day after the day on which they are given notice under sub-paragraph (2).

(4) An appeal must be by notice in writing setting out the grounds on which it is made.

(5) The appeal panel must meet to consider an appeal on such date as the local education authority may determine but the date so determined must not be later than the fifteenth school day after the day on which the notice referred to in sub-paragraph (4) is received by that authority.

(6) On an appeal the panel must allow -

- (a) the local education authority and the governing body to make written representations;
- (b) an officer of the authority nominated by the authority, and a governor nominated by the governing body, to appear and make oral representations; and
- (c) the governing body to be represented.

(7) Appeals must be heard in private except when the local education authority direct otherwise; but -

- (a) if the panel so directs, one member of the local education authority may attend, as an observer, any hearing of an appeal by an appeal panel; and
- (b) one member of the Council on Tribunals may attend, as an observer, any meeting of an appeal panel at which an appeal is considered.

(8) Two or more appeals may be combined and dealt with in the same proceedings if the appeal panel consider that it is expedient to do so because the issues raised by the appeals are the same or connected.

(9) In the event of a disagreement between the members of an appeal panel, the appeal under consideration is to be decided by a simple majority of the votes cast and, in the case of an equality of votes, the chair of the panel is to have a second or casting vote.

(10) Rhaid i'r panel apêl roi gwybod am ei benderfyniad a'r sail dros ei wneud-

- (a) yn ysgrifenedig i'r awdurdod addysg lleol a'r corff llywodraethu; a
- (b) erbyn diwedd yr ail ddiwrnod ysgol ar ôl i wrandawriad yr apêl ddod i ben.

(11) Yn ddarostyngedig i is-baragraffau (2) i (10), mae pob mater sy'n ymwneud â'r weithdrefn apelio i'w benderfynu gan yr awdurdod addysg lleol.

(10) The decision of an appeal panel and the grounds on which it is made must -

- (a) be communicated by the panel in writing to the local education authority and the governing body; and
- (b) be so communicated by the end of the second school day after the conclusion of the hearing of the appeal.

(11) Subject to sub-paragraphs (2) to (10), all matters relating to the procedure on appeals are to be determined by the local education authority.

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2005

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2005 No. 1398 (W.112)

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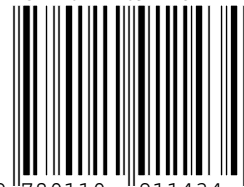
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