
STATUTORY INSTRUMENTS

2018 No. 409

The Short-term Holding Facility Rules 2018

PART 7

VISITING COMMITTEES

Conflict of interest

49.—(1) Members of the Visiting Committee must avoid situations in which they have a direct or indirect interest that conflicts, or potentially conflicts, with their position as a member of the Visiting Committee.

(2) Such interests may include (but are not limited to) the exploitation of information, property, or opportunity for financial gain or other personal purposes.

(3) The duty under paragraph (1)—

(a) extends to the interests of any person connected to the member, and

(b) continues to apply following cessation of membership of the Visiting Committee in relation to knowledge gained whilst a member.

(4) A member of the Visiting Committee who has such a conflict or potential conflict must immediately vacate office as a member.

Visiting Committees

50.—(1) A member of the Visiting Committee for a short-term holding facility appointed by the Secretary of State under section 152 of the Immigration and Asylum Act 1999⁽¹⁾, subject to paragraphs (5), (6) and (7), holds office for three years or such lesser period as the Secretary of State may specify.

(2) A relevant member for the purposes of paragraphs (3) and (4) is a member who is either appointed to a Visiting Committee—

(a) for the first time, or

(b) following a gap of a year or more in their membership of a Visiting Committee.

(3) The first 12 months of a relevant member's appointment are on a probationary basis.

(4) During the first 12 months of a relevant member's appointment that member must undertake adequate training.

(5) The Secretary of State may terminate the appointment of a member of a Visiting Committee if satisfied that the member —

(a) has failed to perform their duties satisfactorily;

(b) has failed to undertake training as required under paragraph (4), by the end of the period specified in that paragraph;

⁽¹⁾ Section 152 was amended by section 66(2)(a) and (b) and (3)(e) of the Nationality, Immigration and Asylum Act 2002.

- (c) is by reason of physical or mental illness, or for any other reason, incapable of carrying out a member's duties, or
 - (d) has been convicted of such a criminal offence, or their conduct has been such, that it is the Secretary of State's opinion that it is not appropriate for that person to remain a member.
- (6) Where the Secretary of State—
- (a) has reason to suspect that a member of a Visiting Committee has conducted themselves in a way which would make them liable to have their appointment terminated under paragraph (5)(a) or (d), and
 - (b) is of the opinion that the suspected conduct is of such a serious nature that the member cannot be permitted to continue to perform their functions as a member of the committee pending the completion of the Secretary of State's investigations into the matter and any decision as to whether the member's appointment should be terminated,
- the member may be suspended from office by the Secretary of State for such a period or periods as may reasonably be required in order to complete investigations and determine whether or not the appointment of the member should be so terminated.
- (7) A member suspended under paragraph (6) is not regarded as being a member of the Visiting Committee during the period of the suspension, other than for the purposes of this paragraph and paragraphs (1) and (5).
- (8) A Visiting Committee must have a chair and a vice-chair who shall be members of the committee.
- (9) The Visiting Committee must—
- (a) upon its constitution for the first time, appoint a chair and a vice-chair from among its members to hold office for a period not exceeding 12 months;
 - (b) thereafter but before the date of the first meeting of the committee in any year of office of the board, appoint a chair and a vice-chair from among its members for that year, and
 - (c) promptly fill a casual vacancy in the office of chair or vice-chair for the remainder of that year.
- (10) The Visiting Committee or the Secretary of State may terminate the appointment of a member as chair or vice-chair if satisfied that the member has—
- (a) failed satisfactorily to perform the functions required of the member as chair or vice-chair, or
 - (b) has acted with gross misconduct whilst performing those functions.

Proceedings of Visiting Committees

- 51.**—(1) The Visiting Committee of a short-term holding facility must meet—
- (a) once a month, or
 - (b) if they resolve for reasons specified in the resolution that less frequent meetings are sufficient, not fewer than eight times in 12 months.
- (2) The committee may fix a quorum of not fewer than three members for proceedings.
- (3) The committee must keep minutes of their proceedings.
- (4) The proceedings of the committee are not invalidated by a vacancy in the membership or a defect in the appointment of a member.

Members visiting short-term holding facilities

52.—(1) The members of the Visiting Committee for a short-term holding facility must visit the short-term holding facility frequently and must arrange a rota whereby at least one of its members visits the short-term holding facility at least once a month.

(2) A member of the committee must have access at any time to every part of the short-term holding facility and to every detained person and they may interview any detained person out of the hearing of an officer.

(3) A member of the committee must have access to those records of the short-term holding facility necessary to enable the member to discharge their duties under these Rules.

General duties of Visiting Committees

53.—(1) The Visiting Committee of a short-term holding facility must inspect —

- (a) the state of the short-term holding facility premises;
- (b) the administration of the short-term holding facility, and
- (c) the treatment of the detained persons held at the short-term holding facility.

(2) The committee must inquire into and report upon any matter into which the Secretary of State asks them to inquire.

(3) The committee must direct the attention of the manager to any matter which calls for the manager's attention, and must report to the Secretary of State any matter which they consider expedient to report.

(4) The committee must inform the Secretary of State immediately of any abuse which comes to their attention.

(5) The committee must bring to the attention of the Secretary of State any aspect of the process of consideration of the status of a detained person that causes them concern insofar as it affects that detained person's continued detention.

(6) Subject to paragraph (5) the committee must not concern themselves with any issue directly relating to the immigration status of any detained person under the Immigration Acts.

(7) Before exercising any power under these Rules the committee or a member of the committee must consult the manager in relation to any matter which may affect the safety of any person or the security of the short-term holding facility.

Particular duties

54.—(1) A member of the Visiting Committee must visit all detained persons who are, at the time of the visit, subject to—

- (a) removal from association under rule 35, or
- (b) temporary confinement under rule 37.

(2) Where a visit takes place under paragraph (1), the Visiting Committee must ensure that correct procedures have been followed in the exercise of rules 35 and 37.

(3) The Visiting Committee and any member of that committee must consider a complaint or request which a detained person wishes to make to the individual member or the committee.

(4) The committee must arrange for the food of the detained persons to be inspected by a member of the committee at regular intervals.

(5) The committee must inquire into a report made to them, whether or not by a member of the committee, that a detained person's mental or physical health, is likely to be injuriously affected by any conditions of their detention.

Reports

55.—(1) Subject to paragraph (4) a Visiting Committee must produce a written report to the Secretary of State each year covering the preceding 12-month period starting with the date that the committee is constituted for the first time.

(2) A report under paragraph (1) is to be produced as soon as reasonably practicable after the end of the relevant 12-month period.

(3) A report under paragraph (1) must consider the treatment of detained persons, the state and administration of any or all of the short-term holding facilities within the Committee's jurisdiction and must include any advice and suggestions they consider appropriate.

(4) A Visiting Committee must comply with any directions given to them by the Secretary of State as regards producing a further report in addition to that referred to in paragraph (1).