

## SCHEDULE 6

Regulation 4(6)

### APPEALS UNDER SECTION 15 OF THE HEALTH AND PERSONAL SOCIAL SERVICES ACT (NORTHERN IRELAND) 2001 AGAINST A DECISION OF THE COUNCIL IN RESPECT OF REGISTRATION UNDER PART I OF THAT ACT

#### **Initiating an appeal**

1.—(1) A person who wishes to appeal to the Care Tribunal under Section 15 of 2001 Act against a decision of the Council under Part I of that Act in respect of registration must do so by application in writing to the Care Tribunal.

(2) An application under this paragraph may be made on the application form available from the Secretary to the Care Tribunal.

(3) An application under this paragraph must be received by the Secretary no later than 28 days after the date of service on the applicant of notice of the decision.

(4) An application under this paragraph must –

- (a) give the applicant's name, date of birth and full postal address;
- (b) give the name, address and profession of the person (if any) representing the applicant;
- (c) give the address within the United Kingdom to which the Care Tribunal should send documents concerning the appeal;
- (d) give the applicant's telephone number, fax number and e-mail address and those of the applicant's representative where these are available;
- (e) identify the decision against which the appeal is brought and give particulars of whether the appeal is against –
  - (i) the refusal of registration of the applicant as a social worker or, as the case may be, a social care worker in the relevant part of the register;
  - (ii) the removal of the applicant from a part of the register;
  - (iii) the suspension, or the refusal to terminate the suspension, of the applicant from a part of the register;
  - (iv) the grant of an application for registration subject to conditions; or
  - (v) the removal, alteration or restoration of an entry relating to the applicant in a part of the register;
- (f) give a short statement of grounds for the appeal; and
- (g) be signed and dated by the applicant.

(5) In this Schedule, “register” means the register maintained by the Council under Section 3(1) of the 2001 Act and “relevant part” of the register means –

- (a) in relation to a social worker, the part of the register for social workers; and
- (b) in relation to a social care worker of a specified description, the part of the register for a social care worker of that description.

#### **Acknowledgement and notification of application**

2.—(1) On receiving an application, the Secretary must –

- (a) immediately send an acknowledgement of its receipt to the applicant; and
- (b) enter particulars of the appeal and the date of its receipt in the records and send a copy of it, together with any documents supplied by the applicant in support of it, to the respondent.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (2) If, in the Secretary's opinion, there is an obvious error in the application –
- (a) he may correct it;
  - (b) he shall notify the applicant in writing accordingly; and
  - (c) unless within five working days of receipt of notification under head (b) the applicant notifies him in writing that he objects to the correction, the application shall be amended accordingly.

### **Response to application**

3.—(1) The Secretary must send the information provided by the applicant under paragraph 1 to the respondent together with a request that he respond to the application within 20 working days of receiving it.

(2) If the respondent fails to respond as requested, he shall not be entitled to take any further part in the proceedings.

- (3) The response must –
- (a) acknowledge that the respondent has received a copy of the application;
  - (b) indicate whether or not he opposes it, and if he does, why; and
  - (c) provide the following information and documents –
    - (i) the name, address and profession of the person (if any) representing the respondent and whether the Secretary should send documents concerning the appeal to the representative rather than to the respondent;
    - (ii) a copy of the decision which is the subject of the appeal and the reasons for the decision; and
    - (iii) a copy of the relevant entry in the register.

(4) The Secretary must without delay send to the applicant a copy of the response and the information and documents provided with it.

### **Misconceived appeals etc.**

- 4.—(1) The Chairman may at any time strike out the appeal on the grounds that –
- (a) it is made otherwise than in accordance with paragraph 1;
  - (b) it is outside the jurisdiction of the Care Tribunal or is otherwise misconceived; or
  - (c) it is frivolous or vexatious.
- (2) Before striking out an appeal under this paragraph, the Chairman must –
- (a) invite the parties to make representations on the matter within such period as he may direct;
  - (b) if within the period specified in the direction the applicant so requests in writing, afford the parties an opportunity to make oral representations; and
  - (c) consider any representations the parties may make.
- (3) Where the Chairman strikes out an appeal made under paragraph (1), regulation 25 (costs) shall apply as if the references to “the Care Tribunal” were instead references to “the Chairman”.
- (4) Where, under paragraph (1), the Chairman has made a determination to strike out an appeal (“the determination”), the applicant may apply to the Chairman, for the determination to be set aside.
- (5) An application under paragraph (4) must –
- (a) be made not later than 10 working days after the date upon which notice of determination was sent to the applicant; and

(b) must be in writing stating the grounds in full.

(6) In the case of an application under paragraph (4), the Chairman, may, if he considers that it is appropriate to do so, set aside the determination (including, where applicable, a costs order made pursuant to paragraph (3)), and may give such directions in exercise of his powers under Part IV of these Regulations as he considers appropriate.

(7) Before setting aside the determination, the Chairman may invite the parties to make representations on the matter within such period as he may direct.

(8) Where the determination is set aside, the Secretary shall alter the relevant entry in the records.

### **Further information to be sent by the applicant and the respondent**

5.—(1) As soon as the respondent has provided the information set out in paragraph 3, the Secretary must write to each party requesting that he send to the Care Tribunal, within 15 working days after the date on which he receives the Secretary's letter, the following information –

- (a) the name of any witness whose evidence the party wishes the Care Tribunal to consider (and whether the party may wish the Care Tribunal to consider additional witness evidence from a witness whose name is not yet known) and the nature of that evidence;
- (b) whether the party wishes the Chairman to give any directions or exercise any of his powers under Part IV of these Regulations;
- (c) whether the party wishes there to be a preliminary hearing with regard to directions;
- (d) a provisional estimate of the time the party considers will be required to present his case;
- (e) the earliest date by which the party considers he would be able to prepare his case for hearing; and
- (f) in the case of the applicant, whether he wishes his appeal to be determined without a hearing.

(2) Once the Secretary has received the information referred to in sub-paragraph (1) from both parties, he must without delay send a copy of the information supplied by the applicant to the respondent and that supplied by the respondent to the applicant.

### **Changes to further information supplied to the Care Tribunal**

6.—(1) Either party, within 5 working days of receiving the further information in respect of the other party from the Secretary, may ask the Secretary in writing to amend or add to any of the information given under paragraph 5(1).

(2) If the Secretary receives any further information under sub-paragraph (1) from either party he must, without delay, send a copy of it to the other party.