

The Independent Schools Tribunal

Homepage

Welcome to the website for the Independent Schools Tribunal in the Isle of Man.

This Website is provided by the General Registry to give general guidance only in relation to the Independent Schools Tribunal and is not, and should not be treated as, a complete and authoritative statement of the law. Advice from legal or other appropriate sources should be sought as necessary.

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General

1 What is the Independent Schools Tribunal and what does it do?

The principal function of the Independent Schools Tribunal ("the Tribunal") is to hear and determine appeals against a notice of complaint served by the Department of Education and Children ('the Department') under Section 43 of the Education Act 2001 ('the Act'), on the proprietor of an independent school and also on any person employed as a teacher at the school who the notice alleges is not a proper person to be a teacher in any school.

Under Section 46 of the Act the Tribunal will also hear and determine appeals by any person who is aggrieved by the refusal of the Department to remove a disqualification imposed by an order made under Section 44 of the Act.

A copy of the Act can be viewed or downloaded from the Department of Education and Children's web site: <http://www.gov.im/education>

The Tribunals Office is not responsible for the content of external internet sites.

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2 Who sits on the Tribunal and how are they appointed?

Normally the Tribunal, at a hearing, comprises of a Chairperson and two lay members.

The Chairperson and the lay members are appointed by the Appointments Commission, established under the provisions of the Tribunals Act 2006.

The Chairperson is required to be a barrister, advocate or solicitor of not less than 7 years' standing.

The Tribunal is administered by the Tribunals' Centralised Administration which is part of the General Registry.

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3 Who are the current persons appointed to the Tribunal?

There are currently no persons appointed to this Tribunal

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4 Are there regulations governing the procedure of the Tribunal?

Yes – the Independent Schools Tribunal Regulations 2004 ("the Regulations"), a copy of which can be accessed [here](#).

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Making an Appeal

5 Who can lodge an appeal?

Any person upon whom a notice, or a copy of a notice, is served under section 43 of the Act may appeal by referring the complaint to the Tribunal.

In addition, any person who is aggrieved by the refusal of the Department to remove a disqualification imposed by an order made under section 44 of the Act may also appeal to the Tribunal.

A person bringing an appeal is referred to as "the Appellant".

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6 Is there a charge for bringing an appeal?

No – there is no charge for bringing an appeal.

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7 How do I appeal?

The Regulations provide that an appeal to the Tribunal shall be instituted by sending to the Department a written notice of appeal signed by the Appellant, setting out the grounds of appeal and stating an address to which communications regarding the appeal should be sent. It is helpful if telephone and email contact details are also included.

It is also helpful, but not mandatory, if any further information or supporting documentation is submitted at this time (see section 14 below).

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8 How long do I have to lodge an appeal?

In the case of an appeal against a notice of complaint served under Section 43 of the Act, the notice will set out the time limit for an appeal, which must be not less than one month after the service of the notice or copy thereof.

In the case of an appeal against the refusal of the Department to remove a disqualification under Section 46 of the Act, the Regulations provide that appeals are to be brought within one month after the communication of the refusal to the Appellant.

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9 Who should I send my appeal to?

You should send your appeal to:

The Department of Education and Children
St George's Court
Upper Church Street
Douglas
IM1 2SG

Tel: 685820 Fax: 685834 Email: admin@doe.gov.im

Please note that where the appeal is against a notice of complaint alleging that a teacher is not a proper person to be employed as a teacher in any school, the Appellant shall at the same time send a copy of the notice of appeal to the proprietor of the school or to the teacher, as the case may be.

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10 Can I be represented in proceedings before the Tribunal?

Yes – the Regulations provide for the right of audience before the Tribunal and that an Appellant may appear and be heard in person; by an Advocate; if a partnership, by a partner; if a company, by a duly authorised Director or officer of the company; or by any other person allowed by the Tribunal to appear on behalf of the Appellant.

The Department may appear and be heard by an Advocate or by any officer of the Department.

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11 So does that mean I can get an Advocate to represent me?

Yes, but you should be aware that you will be personally responsible for any professional fees charged by an Advocate who represents you.

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12 Is Legal Aid available for proceedings before the Independent Schools Tribunal?

No – Legal Aid is not available for proceedings before the Tribunal, although very limited assistance may be available (should your means be such as to comply with the rules) under what is termed the Green Form Scheme. This enables persons to obtain legal advice from an Advocate, but this does not include representation at a Tribunal hearing.

Advice on the Green Form Scheme should be sought from an Advocate, a list of which is available at the Isle of Man Law Society, 27 Hope Street, Douglas. Their website is www.iomlawsociety.co.im

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Before the Hearing

13 How will my appeal be progressed?

The Secretary to the Tribunal (“the Secretary”) will acknowledge receipt of your appeal in writing.

A copy of your appeal will be sent by the Secretary to the Department, and the Department will be asked to provide a written response to your appeal within a reasonable time as directed by the Tribunal Chairperson. You, or your representative, will be sent a copy of the Department’s written response by the Secretary.

In the event that either the Appellant or the Department wish to make an application for directions of an interlocutory nature, such should be made in writing to the Chairman of the Tribunal and should be sent to the Secretary. The application should state the grounds upon which the application is made. Provision in this regard is set out at Regulation 3 of the Regulations (see section 4 above).

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14 What if I have any further information to add to my appeal?

You may submit any further information to the Secretary at any time up until the Tribunal hearing but if the Department and the Tribunal have not had enough opportunity to consider the information supplied the hearing may be adjourned.

In order to avoid delays, it is therefore important that you make every effort to include all the information, and supporting documentation that you wish the Tribunal to consider, as part of your initial appeal wherever possible – where it is not possible to lodge all the information as part of the appeal, you should forward the additional information as soon as you can and ideally not later than 7 days before the date of the hearing.

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15 When will I be advised of the date for the hearing before the Tribunal?

You should receive notice of the Tribunal hearing not less than 28 days before the hearing date. The notice will also indicate the venue for the hearing and the time that you will have to attend. The Secretary will ask you to forward any further submissions you may wish to make to the Tribunal – please note that if you do wish to make further submissions, you are encouraged to do so at the earliest opportunity possible in order to avoid the possibility of the hearing being adjourned (see 14 above).

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16 What if my address, or that of my representative, changes after my appeal is submitted?

In the event that there is a change of address or telephone number for you, or your representative, it is important that such is communicated immediately in writing to the Secretary.

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17 Can I ask for a postponement?

Yes, although any request must be made in writing prior to the hearing and should clearly explain the reason(s) why you are asking for a postponement. The request should be forwarded to the Secretary, who in turn will bring it to the attention of the Chairperson for their consideration. The views of the Department may also be sought.

If, after considering your application, the Chairperson decides to grant a postponement, the Secretary will notify you accordingly and will arrange a new date for the appeal to be considered.

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18 What if I do not wish to attend the hearing?

The Regulations provide that if an Appellant fails to appear at the time fixed for a hearing of an appeal, the Tribunal may, if it is satisfied that he has been afforded an adequate opportunity of attending, dismiss the appeal in regard to that Appellant or hear and determine it in his absence.

The Regulations also provide that if the Department fails to appear at the time fixed for a hearing, the Tribunal may proceed to hear and determine the appeal in its absence.

Generally speaking it is important that a party does attend at a hearing. Whilst the Tribunal may decide to proceed in the absence of a party and consider the written documentation, that alone may not tell the whole story. By attending the hearing you will be offered the opportunity to put your side of the story forward, as well as calling any witnesses you may wish to give relevant evidence, and answer any questions the Tribunal or the Department may have, all information which may lead to the Tribunal reaching a decision in your favour. You will also be able to ask questions of the representative for the Department and any witnesses they call.

You may bring anyone you choose to attend the appeal hearing with you, even if it is just a friend or relative for moral support, although please note, at section 10 above, the provisions as to representation before the Tribunal.

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19 If an appeal is made can it be withdrawn?

Yes – an Appellant may at any time before the hearing give notice in writing to the Secretary that he desires to withdraw his appeal and thereupon the appeal shall be deemed to be dismissed in regard to that Appellant, but without prejudice to its continuation in regard to any other Appellant.

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20 What about travel and parking arrangements for the hearing?

Each party will have been notified of the date, time and place of the hearing and will normally be asked to arrive 15 minutes before the hearing is due to commence. It is important that consideration is given to travel arrangements, parking etc so as to ensure that a party arrives on time. If you are not sure as to the location of the hearing, or indeed any other matters, please contact the Secretary.

Arrangements for car parking should be made, by both parties and witnesses, for sufficient time to avoid

parking penalties being incurred whilst the hearing proceeds. Please note parties and witnesses are responsible for their own parking fees, and indeed any parking penalties incurred.

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The Hearing

21 Who will be present in the hearing room?

As well as the Tribunal Chairperson and members, the Secretary will also be present as the Secretary is responsible for recording the hearing. Prior to the hearing, if you have any questions, please do not hesitate to contact the Secretary who will do their utmost to assist you. However, please bear in mind the Secretary will not be able to provide you with legal advice or comment on the merit of your appeal.

A representative will attend on behalf of the Department and you will be given the opportunity to ask them questions; they will also have the opportunity to ask you questions.

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22 What happens at the hearing?

The Secretary will come to collect you from the waiting area as soon as the Tribunal is ready to hear your appeal. Please bring your case papers with you as you will need to refer to them from time to time.

The Chairperson will introduce everyone and explain the procedure, however please do not hesitate to ask if you are unsure about anything.

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23 Is the hearing recorded?

Yes - the Secretary will ensure that the hearing is recorded and parties will see microphones for this purpose located on each of the tables.

Although copies of the recording may be purchased following the hearing (it usually takes a few days for copy discs to be made available), on payment of the prescribed fee, it is the responsibility of parties to take their own notes for their use during the proceedings.

Apart from the Secretary, it is **not permitted** for any other person in attendance at the hearing to use any form of recording equipment.

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24 Are members of the public allowed to attend the hearing?

Yes - the Regulations provide that the hearing of an appeal shall take place in public unless the Tribunal determines that there are exceptional reasons which make it desirable that the hearing or some part of it should take place in private.

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25 How do parties address the Chairperson and members of the Tribunal?

It is customary to address the Tribunal via the Chairperson who should be called either 'Sir' or 'Madam', as applicable. If it is necessary to address either of the lay members directly they may be referred to as 'Sir' or 'Madam', as applicable, or alternatively by name.

Tribunal hearings are less formal than, for example, in the High Court so there are no wigs and gowns worn. It is not necessary to bow to the Tribunal upon entering and leaving the hearing room and it is not necessary to stand to address the Tribunal, unless of course a party prefers to do so.

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26 Can a party be liable for costs in proceedings before the Tribunal?

No – there are no provisions for costs to be awarded

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The Decision

27 When will I be given a decision?

After closing statements by the parties summing up their respective cases, the Tribunal will adjourn to consider the appeal. The Tribunal may give the decision orally at the end of the hearing or in writing as soon as practicable after the hearing. In any event the decision shall be given within 14 days after the date of the hearing.

A copy of the decision is provided to the Registrar of Independent Schools who provides for such to be open to public inspection at all reasonable times.

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28 Does the decision have to be unanimous?

No – a decision of the Tribunal may be taken by a majority.

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Appeals against the Tribunal's decision

29 Can I appeal against the Tribunal's decision?

No provision is made for an appeal from the decision of the Tribunal. Legal advice should be sought in this respect as required.

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30 Can the Department of Education and Children appeal against the decision?

No provision is made for an appeal from the decision of the Tribunal. Legal advice should be sought in this respect as required.

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Contacting the Tribunal

31 What is the address for the Independent Schools Tribunal?

The address to which correspondence should be sent is:

**Secretary to the Independent Schools Tribunal
Tribunals Office
Isle of Man Courts of Justice
Deemsters Walk, Bucks Road
Douglas
Isle of Man, IM1 3AR**

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32 How do I contact the Secretary to the Independent Schools Tribunal?

If a person wishes to contact the Secretary they can do so during normal office hours (Monday - Friday 9am to 5pm) on:

Tel: 685941 Fax: 685573 or Email: tribunals@gov.im

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Useful Links

Department of Education and Children website: www.gov.im/education

Isle of Man Law Society website: www.iomlawsociety.co.im

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