



The Administrative Decisions (Review) (Guernsey) Law, 1986

Reviews & Tribunals Service
Sir Charles Frossard House
La Charroterie
St Peter Port
Guernsey
GY1 1FH
Tel: 01481 233884
Email: reviewboard@gov.gg
Web: www.gov.gg/reviewboard

Guidance to making a complaint under the Administrative Decisions (Review) (Guernsey) Law, 1986.

Summary

The Administrative Decisions (Review) (Guernsey) Law, 1986 (called "the Law" in this Guidance) established a process which allows certain decisions, acts and omissions of the States to be reviewed by a Review Board.

A Review Board comprises 4 members, who may include People's Deputies, senior parochial officials and independent members. It enquires into the complaint and makes findings; if it considers that an error has occurred, it will request the States to reconsider.

Administrative decisions

Under the Law, a person who wants to complain about:

- a decision, act or omission of an administrative nature (called "an administrative decision" in this Guidance),
- which is made by a Committee (also includes States Authorities and Boards) or a person acting on behalf of a Committee, of the States of Guernsey,

may apply to have that administrative decision reviewed by a Review Board.

Complaints Panel

Where a person has applied to have an administrative decision reviewed by a Review Board, it will first be reviewed by the Complaints Panel. The Complaints Panel comprises 3 independent people who decide if the complaint:

- (a) relates to an administrative decision,
- (b) justifies a review, and
- (c) is not excluded by the Law (see page 3 & 4 of this document).

The Complaints Panel will only refer a complaint for review by a Review Board where (a) to (c) are all satisfied.

Review Board

Where a complaint is referred to a Review Board, it makes enquiries to review the administrative decision and makes findings. If the Review Board determines that the administrative decision:

- (a) was contrary to law, or
- (b) was unjust, oppressive or improperly discriminatory, or was in accordance with a provision of any enactment or practice which is or might be unjust, oppressive or improperly discriminatory, or
- (c) was based wholly or partly on a mistake of law or fact, or
- (d) could not have been made by a reasonable body of persons after proper consideration of all the facts, or
- (e) was contrary to the generally accepted principles of natural justice,

the Review Board will request the Committee, or person acting on its behalf, to reconsider it.

It is therefore important to understand:

- the Review Board is not a court of law and cannot make definitive findings of fact;
- the Review Board is primarily concerned with reviewing administrative decisions which can as a matter of fact be reconsidered, rather than investigating the previous conduct of a Committee (or a person acting on its behalf) in circumstances where its findings cannot affect the outcome of that administrative decision.
- the Review Board cannot quash a decision, substitute its own decision for that of the Committee or person, or direct it or them to take (or not to take) any course of action; and
- the Review Board has no power to give any other form of remedy, such as awarding compensation.

Under the Law, there is no right of appeal against a decision of the Review Board.

Before you make a complaint

If you wish to make a complaint under the Law, it may be helpful to consider the following:

- **Is the matter you wish to complain about a decision, act or omission of an administrative nature?** If your complaint relates to e.g. a failure to make legislation or a policy which you wish to challenge, these are not "administrative decisions" under the Law.
- **Has the administrative decision been made by a Committee of the States of Guernsey (or person acting on its behalf)?** Under the Law, the Review Board cannot consider complaints against any other body or entity.
- **Have you exhausted any complaints procedures for the Committee concerned, including any rights of appeal under those procedures?** These must be completed before the Review Board can consider a complaint.
- **Is the complaint excluded by section 3 of the Law?** See the list of exclusions on page 4. Helpful questions relating to these exclusions include:
 - **Is there a statutory appeals procedure in respect of the administrative decision you wish to challenge?** If yes, you must use the appeal process rather than make a complaint under the Law.
 - **Would the subject matter of your complaint be more appropriate for Judicial Review?** If yes, you should lodge an application for Judicial Review rather than make a complaint under the Law.

Making a complaint

If you are satisfied that making a complaint under the Law is appropriate, you should set out your complaint in writing using the relevant form: [Application for an Administrative Decisions Review Board - States of Guernsey \(gov.gg\)](https://www.gov.gg/decisions-review-board). You will need to:

- Set out clearly the individual decision(s), act(s) or omission(s) that you are complaining about;
- Identify the Committee(s) of the States of Guernsey which has made the decision(s), act(s) or omission(s) that you are complaining about (including any person acting on the Committee's behalf);
- State why the circumstances of the decision(s), act(s) or omission(s) justify a review by a Review Board;
- Provide any documentation to support your complaint, including any information relating to any appeals procedure used in respect of the complaint.

Should you decide to make a complaint, it will firstly be considered by the Complaints Panel which will decide whether to refer it to a Review Board.

List of Exclusions

Under section 3 of the Law, the Complaints Panel must not refer a complaint to a Review Board if:

- a) the matter complained of is not within the jurisdiction of a Review Board,
- b) the matter complained of relates to a decision, act or omission of which the complainant has had knowledge for more than twelve months, unless there are exceptional circumstances which justify the delay making the complaint, or it is otherwise in the interests of justice to refer the complaint,
- c) the subject matter of the complaint is trivial,
- d) the complaint is frivolous, vexatious, unreasonable, or not made in good faith,
- e) the complainant has not a sufficient personal interest in the subject matter of the complaint,
- f) the complainant has not exhausted the internal complaints procedures of the relevant Committee in respect of the matter complained of,
- g) the complainant has in respect of the matter complained of, a right of appeal, reference, or review, or a remedy by way of proceedings in any court of law unless, the Complaints Panel is satisfied it is not reasonable to expect the complainant to resort to, or to have resorted to, that right or remedy,
- h) the complaint would require the Board to make a finding of medical negligence or malpractice in order to form an opinion.

If the Complaints Panel find any one or more of the above points apply to the complaint, it must refuse to refer it to a Review Board and the matter will be closed at that point.

Further Information

If you would like to discuss matters, in confidence, before deciding whether or not to make a complaint, please contact:

The Reviews & Tribunals Service

Email: ReviewBoard@gov.gg

Telephone: 01481 223384