



Chartered Institute of Environmental Health

Fitness to Practise Panel Appeal Hearing held on 9 December 2022 online

Determination

Appellant:	Laurie McNicholas
Panel members:	Ronald Barham (Chair, lay member) Kristian Cavanagh (lay member) Roberta Borges-Stewart (professional member)
Hearing Clerk:	Jon Buttolph
Ms Nicholas:	Not present, nor represented
Chief Executive, CIEH:	Represented by Reuben Runghasawmi
Outcome:	Appeal dismissed

Details of appeal

A Committee had been convened on 23rd September 2022 to consider a potential breach of the Examination Regulations. It had determined:

Outcome: Allegation proven, a breach of the CIEH Examination Regulations occurred. The Committee concluded that Regulation 60.7 was a more appropriate description of the breach than Regulation 60.3.

Regulation 60.7 reads: any action considered by the Learning and Qualifications Advisory Group to unduly or improperly influence the result of the assessment or have the potential to do so.

Sanction: To preclude the Respondent from resitting the assessment for a period of twelve months.

The twelve-month exclusion period is deemed to start from receipt of the original submission of the portfolio. Thus a replacement portfolio may be submitted on or after 19 April 2023.

Ms Nichols' appeal was against the sanction rather than the finding of the Committee that the Examination Regulations had been breached.

The grounds of appeal were:

13.1.2 That additional evidence (which was not available at the time of the meeting) has subsequently become available and that this evidence could have materially affected the decision of the Panel

13.1.4 That the proposed sanction is disproportionate

Ms Nichols' s submissions stated that the basis of her appeal was that:

1. I was employed in my current role with the promise of completing my professional portfolio within 3-6 months of starting. However due to the ongoing Covid-19 pandemic making it difficult to gain access to the necessary businesses and other personal issues [redacted], this was unfortunately delayed.

2. As a result of the assurance of my professional portfolio being quickly submitted, I was allowed to immediately start on the salary of the scale I was employed at. My employer, Winchester City Council, did not condition my contract with a 'qualification clause' limiting my salary until such time that I qualified, which would be the normal practice.

3. As a consequence of this, any further delays in the submission of my professional portfolio do not hold me back financially, but rather hold me back from undertaking the role I was employed to do. This in effect penalises Winchester City Council rather than me individually.

4. The Health Protection Team is a small team consisting of just 4.6 FTE and my current inability to undertake food hygiene inspections is significant. This has been made worse by the recent long term sickness of a member of the team.

I believe that the above information meets both of the grounds for appeal because;

- 1. This information was not available to the panel at my hearing, and*
- 2. The sanction is disproportionate as it holds Winchester City Council to account rather than myself.*

Evidence submitted

The panel determined that it was appropriate to continue the hearing in the absence of the appellant (noting that she had been given notice of the date, time and place of the hearing, that she had responded to that notice and that she had voluntarily absented herself), not least because the alternative sanction proposed by the appellant included a date of resubmission in the near future. It was, therefore, in the interests of the appellant that the panel determine this appeal today.

The panel, having been provided in advance with the following documents, agreed to consider them “as read”:

1. The determination of the Committee held on 23rd September 2022
2. The letter of appeal
3. The email from David Ingram to the appellant dated 21st September 2022 sent at 17:54 and titled “Re: Service Lead position in regard your appeal on the 12 month deferral of log book submission to the CIEH”

The panel also considered oral submissions from Reuben Runghasawmi about CIEH’s assessment processes and the original Committee hearing.

Mr Runghasawmi confirmed that the Committee which heard the original matter had concluded that the sanction was proportionate for a number of reasons:

- a. The candidate’s attempt to deceive
- b. The candidate’s failure to take the opportunities offered to behave differently in the time period leading up to the Committee hearing
- c. The candidate’s failure fully to admit wrongdoing, during the Committee hearing
- d. That the time period would give the candidate ample opportunity to reflect on their actions

Mr Runghasawmi confirmed that the Committee had discussed the full range of available sanctions at length, before coming to its determination.

Mr Runghasawmi confirmed that CIEH did not have a view as to its preferred outcome of the appeal and that the decision was, in the view of CIEH, entirely a matter for this panel.

Decision on appeal and reasons

The panel noted that the appellant had attended the Committee hearing in person (online).

The panel noted that the Committee had, therefore, considered a wide range of written and oral evidence in relation to the alleged breach of Examination Regulations, which it had found proven.

The panel considered the issue of pressure being put on the appellant to complete their work before a specified deadline. The panel agreed that professional resilience and being aware of personal limitations should be a key component of all health practitioners.

The panel noted that the assertions of the appellant in her email were not supported by “evidence” and, thus, did not constitute new evidence not available to the original hearing.

The appellant’s suggestion that their employer was being held to account rather than the appellant was carefully considered by the Committee.

The panel was clear that the matter before it was one of professional ethics. The Committee’s determination and sanction reflected this. Any effect of this on the appellant’s employer, or (lack of) financial sanction to the appellant were not, in the judgement of the panel, relevant to the decision that it had to make today.

The panel noted that the appellant seeks to work in a legal enforcement role relating to food safety and public protection. Their professional integrity was, therefore, paramount and a matter that engaged the public interest.

For the reasons set out above, the panel concluded that the original sanction determined by the Committee was both appropriate and proportionate.

The appeal was, therefore, dismissed.

That concludes this determination.