

# **NORTH LANARKSHIRE COUNCIL**

## **LOCAL GOVERNMENT (SCOTLAND) ACT 1947: SECTION 238**

### **GUIDELINES ON THE PROCEDURE FOR APPEALS**

1. Section 238 of the Local Government (Scotland) Act 1947, as amended, makes provision for any person to lodge with a rating authority an appeal against the rates claimed from him/her on the ground that he/she is being improperly charged and for such appeals to be heard by the rating authority or a committee thereof.
2. North Lanarkshire Council, as rating authority in terms of that Section for the area of North Lanarkshire, has delegated to the Finance (Appeals) Sub-Committee power to hear and determine such appeals.
3. The procedures for the hearing and determination by the Finance (Appeals) Sub-Committee of such appeals are as follows:-
  - (a) From the Administration Department of the Council there will be appointed officer(s) to act as clerk to, carry out the servicing of and provide legal advice to the Sub-Committee. No such officer shall be an employee of the Council who, in the course of his or her employment, deals with the determination of rates charged or to be charged. In the event of parties being required by the Sub-Committee to withdraw, the clerk and any other officer providing legal advice shall remain with the Sub-Committee.
  - (b) The Director of Administration, following receipt of intimation in writing requesting an appeal hearing, shall give notification of the date fixed therefor. That notification shall be given not less than twenty one days before the date of the hearing.
  - (d) The appellant shall send to the Director of Administration and to the respondent, to reach both parties not less than ten days before the date fixed for the hearing, details of any representations he/she wishes to make in support of his or her contention that, in respect of the rates claimed from him/her, he/she is being improperly charged.
  - (e) The respondent shall send to the Director of Administration and to the appellant, to reach both parties not less than ten days before the date fixed for the hearing, details of any representations the respondent wishes to make in relation to the rates claimed from the appellant.
  - (f) At the appeal hearing the order of the procedure shall, unless altered at the appeal hearing with the consent of the Chair, be as follows:-
    - (i) Opening remarks by the Chair introducing those present and ensuring that the appellant and the respondent understand the procedure at the meeting;
    - (ii) The appellant or the appellant's representative will then be invited to present the appellant's case in the form of a statement and may call one or more witnesses to speak to any material fact;

- (iii) The respondent or the respondent's representative and any member of the Sub-Committee may ask questions of the appellant or the appellant's representative, as the case may be, and of any witness;
  - (iv) Thereafter the respondent or the respondent's representative will be invited to present the respondent's case in the form of a statement and may call one or more witnesses to speak to any material fact;
  - (v) The appellant or the appellant's representative and any member of the Sub-Committee may ask questions of the respondent or the respondent's representative, as the case may be, and of any witness;
  - (vi) Where the Chair considers that information to be elicited from any witness is not relevant to the proceedings or relates solely to matters which do not constitute material facts or that any questioning or any address either does not relate to a material fact or would lead to undue repetition or elaboration, the Chair may order that such witness be not heard or may disallow such questioning or address;
  - (vii) No document, with the exception of the information referred to and sent in terms of paragraphs (d) and (e) above, may be submitted at the hearing to support a party's submissions without the specific consent of the Chair, which consent will be withheld if, in the view of the Chair, the party not submitting the same is prejudiced thereby, and if granted, may be granted subject inter alia to conditions relating to the inspection of the relevant document by any party to the hearing not submitting the same and the affording of facilities to any party not submitting the same to take or obtain copies thereof;
  - (viii) After the conclusion of evidence and questioning the appellant, or his/her representative as the case may be, followed by the respondent or his or her representative as the case may be, will be given the opportunity to summarise their cases whereafter the appellant and respondent and their respective representatives shall leave the meeting.
- (g) The Finance Appeals Sub-Committee shall, thereafter consider the matter and determine the appeal and the clerk to the Sub-Committee shall notify, in writing, both parties of the Appeal Committee's determination within fourteen days of the date of the hearing.