

FEDERAL APPEALS PANEL

APPLICATION BY LUCAS NORTH

FINAL DECISION

David Graham
Case Manager
23 September 2024

Decision

It is declared that the Applicant was entitled to make a disciplinary complaint under the Article 23 complaints process about a member's conduct, notwithstanding that they were a candidate in an internal Party election, where the complaint did not relate to the fairness of the election or the conduct of the election campaign.

Reasons

1. The Applicant submitted a disciplinary complaint about a member which a Standards Officer refused to process on the grounds that where a member is a candidate in an internal election, the complaint must be made under the Election Regulations to the returning officer. The Applicant says that the complaint does not relate to an alleged breach of the Election Regulations, but to other alleged misconduct. The Applicant applied to the FAP on the basis that his rights as a member had been interfered with.
2. The Federal Party Constitution ('FPC') provides at article 9.9 that the Federal Board shall have power, after appropriate consultations and subject to ratification by the Conference, to make and from time to time vary rules (C) as to party elections and (E) such other matters as it may consider necessary and desirable to give effect to or supplement the provisions of this Constitution'. Article 23.1 of the FPC provides that 'If a complaint is brought against a member or the Party', it 'shall' be dealt with by the State Party and article 23.2 provides that provided it is done in compliance with the procedures made under article 23.3, each State Party may decide to delegate the administration of its complaints to the Federal Party.
3. The role of the returning officer is to ensure the efficient, timely, and fair conduct of the elections. They have power under regulation 21a to disqualify or unseat a candidate who 'has brought the party into disrepute during the campaign or where the Returning Officer has clear evidence of this happening in the near future', as well as where (under reg.21b) the candidate is found to be in breach of the regulations. Regulation 22 provides that any party member 'may lodge...a formal complaint of infringement of election regulations...not more than 7 days after the declaration'. The

returning officer under the regulations is not given any disciplinary powers (like suspending or revoking membership).

4. The Lead Adjudicator and the member who was subject to the complaint did not oppose the application. As the application is uncontested, I am determining it myself in writing under rule 7.4 of the Published Procedures.
5. There is no basis for requiring any and all complaints not alleging electoral misconduct to be made to the returning officer in an internal election just because the person complained of happened to be running in an internal election at the time. That would lead to arbitrary effects and would be inconsistent with the intent of Article 23 of the FPC, which is for disciplinary complaints to be handled in accordance with the same article 23 procedures, and with the scheme of the Election Regulations which are not intended to relate to wider disciplinary issues. The member of staff concerned was accordingly wrong to reject the disciplinary complaint for the procedural reason given.