

## **The procedure for hearings before the Standards Hearing Sub-Committee.**

### **1. Procedure**

- 1.1 Formal hearings will be conducted by the Standards Hearings Sub-Committee.
- 1.2 A member of the Standards Committee, against whom a Code of Conduct complaint has been made, shall not be permitted to sit as a member of the Sub-Committee until consideration of the complaint has been concluded.
- 1.3 Agendas for Sub-Committees shall be published and the Sub-Committee shall be held in public unless:
  - This would involve disclosure of exempt information as defined by Schedule 12A, Local Government Act, 1972; and
  - In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- 1.4 Before the Sub-Committee meets, the Monitoring Officer shall write to the member and to the complainant, asking each:
  - Whether they accept the finding in the report
  - Whether they dispute any factual part of the report, identifying any areas of dispute.
  - Whether they wish to call any witnesses at the hearing. (Only witnesses identified to the Investigating Officer by the complainant or by the member may be called as witnesses. In law, witnesses do not have to attend.)
  - Whether the complainant wishes to be present at the hearing. (The complainant shall be invited, but is not obliged, to attend the hearing. If the complainant is not present, the procedure below shall be adapted accordingly.)
  - Whether they wish to be accompanied at the hearing.
- 1.5 Subject to the discretion of the Chair, the hearing shall be conducted as follows:
  - a. The Investigating Officer will be invited to present their report and to call witnesses. The complainant, the member and the Sub-Committee (including the Independent Person(s)), in that order, may ask questions or seek clarification both of the Investigating Officer and any witnesses.
  - b. The complainant will be invited to comment on the report and its findings and to call witnesses. The Investigating Officer, the member and the Sub-Committee, in that order, may ask questions or seek clarification both of the complainant and any witnesses.

- c. The member will be invited to comment on the report and its findings and to call any witnesses. The Investigating Officer, the complainant and the Sub-Committee, in that order, may ask questions or seek clarification both of the member and any witnesses.
  - d. The Investigating Officer, the complainant and the member will be invited, in that order, to make brief concluding remarks.
- 1.6 The Chair and Sub-Committee, including the Independent Person(s), may ask for advice at any stage from the Monitoring Officer.
- 1.7 Once the hearing has been concluded, the Sub-Committee, with the Independent Person(s), will retire to consider its decision. It may call on the Monitoring Officer to provide advice and guidance. The Sub-Committee is required to do the following:
  - (i) to decide on the facts,
  - (ii) to decide on whether these facts constitute a breach of the Code of Conduct, and
  - (iii) to decide on the appropriate sanction.
- 1.8 In deciding whether or not to uphold the complaint the Sub-Committee must apply, as the standard of proof, the balance of probability, with the burden of proof resting on the Investigating Officer. The Sub-Committee may only make an adverse finding if satisfied, on this basis, that the member has breached the Code of Conduct.
- 1.9 The Sub-Committee will then return and announce its findings on whether there has been a breach of the Code, with reasons.
- 1.10 Following announcement of the Sub-Committee's findings, the complainant and the member will be invited to make submissions, if necessary, regarding remedies or sanctions.
- 1.11 The Sub-Committee will then consider what, if any, sanction it wishes to impose. It shall retire whilst it considers this. It will then announce its decision and give reasons.
- 1.12 Following the hearing, the Monitoring Officer shall draft a record of the decision for approval by the Sub-Committee. Once the record of decision has been settled, a copy shall be sent to each of the parties.

## **2. Appealing a Decision about a Complaint**

- 2.1 There is no right of appeal against a decision on a Code of Conduct complaint. If the complainant or the member considers that the complaint has not been considered properly by the Council, they may be able to complain to the Local Government Ombudsman or seek permission for judicial review.

## **3. Sanctions available to the Sub-Committee**

- 3.1 The Sub-Committee has powers to take action in respect of individual councillors as necessary to promote and maintain high standards of conduct.
- 3.2 The Sub-Committee may do one, or a combination, of the following:
- a. Issue a formal Censure or Reprimand to the Member
  - b. Report its findings to Council (or to the Parish or Town Council) for information
  - c. Recommend the Member's Group Leader (or in the case of ungrouped members, recommend the Council or Committees) to remove the Member from appointments to Committees or Sub-Committees of the Council
  - d. Recommend the Leader of the Council to remove the Member from any appointment to the Cabinet, or from particular Portfolio responsibilities
  - e. Instruct the Monitoring Officer to (or recommend that the Parish or Town Council) arrange training for the Member
  - f. Recommend to the Council or its Cabinet, or to the Parish or Town Council that all outside appointments to which the member has been appointed or nominated by that Authority are removed
  - g. Exclude (or recommend that the Parish or Town Council exclude), the Member from the Council's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings
  - h. If relevant, recommend that the Council removes the Member from the post of Leader of the Council.
  - i. Publish its findings in respect of the Member's conduct.

In cases where the Sub-Committee makes an adverse finding against a Member, its decision will be published on the Standards Committee pages of the Council's website. This includes decisions relating to members of Town or Parish councils.

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