

Standards Committee Determinations Procedure Rules

I INTERPRETATION

- I.1 'Member' means the elected or co-opted Member of the Council who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Member's nominated representative.
- I.2 'Investigator' means the Ethical Standards Officer who referred the report to the Council, and includes his or her nominated representative. In the case of matters that have been referred for local investigation, references to the Investigator mean the Monitoring Officer or other investigating officer, and his or her nominated representative.
- I.3 "Committee" also refers to 'a Standards Sub-Committee'.
- I.4 'Legal Advisor' means the officer responsible for providing legal advice to the Standards Committee. This will usually be the Monitoring Officer, unless he has a conflict of interest or is acting as the Investigator in which case another legally qualified officer of the Council, or someone appointed for this purpose from outside the Council.

2 RIGHT TO REPRESENTATION

The Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Committee, another person.

3 LEGAL ADVICE

The Committee may take legal advice from its Legal Advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with the Member and the Investigator if they are present.

4 PRE-HEARING

- 4.1 The following pre-hearing process to deal with procedural matters will normally be carried out in writing, although exceptionally, a face-to-face meeting between the Chairman, the Member, the Legal Advisor and the Investigator and their representatives may be necessary.
- 4.2 As soon as reasonably practicable after receiving a copy of the Investigator's Report from the Investigator, the Monitoring Officer shall send a copy of the Investigator's Report to the Member.
- 4.3 The Monitoring Officer in consultation with the Chairman of the Committee, will write to the Member, enclosing a copy of these Procedure Rules, to propose a date for the hearing and to explain the Member's rights. They will ask for a written response from the Member, within a set time usually 14 days, to find out whether or not he or she:
- disagrees with any of the findings of fact in the Investigator's Report, and if so, which ones and the reasons for any disagreements;

- wants to be represented at the hearing by a solicitor, barrister or any other person;
- wants to give evidence to the Standards Committee, either verbally or in writing;
- wants to call relevant witnesses to give evidence on any disagreements as to the findings of fact or mitigation to the Standards Committee;
- wants any part of the hearing to be held in private;
- wants any part of the Investigator's Report or other relevant documents to be withheld from the public; and
- can come to the hearing.

NOTE: Members are encouraged to use the forms attached to this Part of the Constitution to identify any findings of fact that he or she disagrees with (Form A) and outline any further evidence that he or she believes the Standards Committee should consider (Form B).

4.4 The Monitoring Officer will ask the Investigator to comment on the Member's response, within a set time usually 14 days, to say whether or not he or she:

- wants to be represented at any hearing (and if so to indicate their availability to attend);
- wants to call relevant witnesses to give evidence to the Standards Committee;
- wants any part of the hearing to be held in private; and
- wants any part of the Investigator's Report or other relevant documents to be withheld from the public.

4.5 For the avoidance of doubt, should the Member and/or the Investigator fail to respond within the time set for a response they will be deemed to have agreed to the findings of fact or the Member's response as the case may be.

4.6 If necessary the Standards Committee will meet to consider any responses from the Member concerned and the Investigator and to decide whether any other witnesses should be present who it feels may help in determining the case, including the person who made the original allegation. However, no witnesses can be ordered to appear or give evidence. The Committee should then resolve any issues or disagreements about how the hearing should continue, which have been raised but not resolved during the pre-hearing process.

4.7 Once the pre-hearing process has been completed Committee Secretary, in consultation with the Legal Advisor, should then write to everyone involved at least two weeks before the hearing to:

- set the date, time and place for the hearing;

- summarise the allegation;
 - outline the main facts of the case that are agreed;
 - outline the main facts which are not agreed;
 - note whether the Member or the Investigator will go to or be represented at the hearing;
 - list those witnesses, if any, who will be asked to give evidence; and
 - outline the proposed procedure for the hearing.
- 4.8 The Committee meeting shall be called in the usual way and arrangements for the hearing made.
- 5 **THE HEARING - SETTING THE SCENE**
After all the Committee and everyone involved have been formally introduced, the Chairman should explain how the Committee is going to run the hearing.
- 6 **ABSENCE OF THE MEMBER**
If the Member is not present at the time and place fixed for the hearing and the Committee is satisfied that he has been given notice of the hearing, the Committee may, unless it is satisfied that there is sufficient reason for the Member's absence, consider the allegation and make a determination in the absence of the Member concerned; or adjourn the hearing to another date.
7. **EXCLUSION OF PRESS AND PUBLIC**
The Chairman shall ask the member, the investigator and the legal adviser to the Committee whether they wish to ask the Committee to exclude the Press or public from all or any part of the hearing. If any of them so request, the Chairman shall ask them to put forward reasons for so doing and ask for responses from the others and the Committee shall then determine whether to exclude the press and public from all or any part of the hearing.
- 8 **MAKING FINDINGS OF FACT AND DETERMINING WHETHER THERE HAS BEEN A BREACH OF THE CODE**
- 8.1 After dealing with any preliminary issues, the Committee should then move on to consider whether or not there are any significant disagreements about the facts contained in the Investigator's report.
- 8.2 If there is no disagreement about the facts, the Committee will move on to the next stage of the hearing.
- 8.3 If there is a disagreement, the Investigator, if present, shall be invited to make any necessary representations to support the relevant findings of fact in the report. With the Committee's permission, the Investigator shall call any necessary supporting witnesses to give evidence. The Investigator shall also be invited to make

- representations as to why the Committee should decide that the Member has failed to follow the Code of Conduct.
- 8.4 The Committee shall give the Member an opportunity to challenge any evidence put forward by any witness called by the Investigator
- 8.5 The Member shall then have the opportunity to make representations to support his or her version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence. The Member shall also be invited to make representations as to why the Committee should not decide that he or she has failed to follow the Code of Conduct
- 8.6 At any time, the Committee may question any of the people involved or any of the witnesses, and shall allow the Investigator to challenge any evidence put forward by witnesses called by the Member.
- 8.7 The Member will, if present, be invited to make any final relevant points.
- 8.8 If the Member disagrees with any relevant fact in the Investigator's Report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may, if the Investigator is present:
- continue with the hearing, relying on the information in the Investigator's Report; or
 - allow the Member to make representations about the issue, and invite the Investigator to respond and call any witnesses, as necessary; or
 - adjourn the hearing to arrange for appropriate witnesses to be present.
- 8.9 Should the circumstances mentioned in paragraph 8.8 arise, and the Investigator is not present, then the Committee will consider also whether or not it would be in the public interest to continue in his or her absence. If the Committee decides that it is not in the public interest to continue, it shall adjourn the hearing to allow the Investigator to attend or to make further representations.
- 8.10 The Committee will usually move to another room to consider the representations and evidence in private. The Committee Secretary shall accompany the Committee to record their findings.
- 8.11 If at any time during their considerations the committee requires legal advice it shall return to the room where the hearing took place and shall be given that advice in the presence of both the Investigator and the Member
- 8.12 The Committee may make one of the following findings:-
- The Member has not failed to follow the Council's Code of Conduct; or
 - The Member has failed to follow the Council's Code of Conduct.

- 8.13 On their return, the Chairman will announce the Committee's finding of facts and its decision as to whether or not the Member has failed to follow the Code of Conduct.

9 IF THE MEMBER HAS NOT FAILED TO FOLLOW THE CODE OF CONDUCT

If the Committee decides that the Member has not failed to follow the Code of Conduct, the Committee will consider having regard to any verbal or written representations from the Investigator whether it should make any recommendations to the Council with a view to promoting high standards of conduct among Members.

10 IF THE MEMBER HAS FAILED TO FOLLOW THE CODE

- 10.1 If the Committee decides that the Member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the Investigator and the Member as to:

- whether or not the Committee should set a penalty; and
- what form any penalty should take.

- 10.2 The Committee may question the Investigator and Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.

- 10.3 The Committee will then usually move to another room to consider whether or not to impose a penalty on the Member and, if so, what the penalty should be. The Committee Administrator shall accompany the Committee.

- 10.4 The Committee may do any one or a combination of the following:-

- Censure the Member (This is the only form of penalty available when dealing with a person who is no longer a member of the Council).
- Restrict the Member's access to the Council's resources for up to three months, which could include limiting their access to the Council Offices.
- Suspend or partly suspend the Member for up to three months.
- Suspend or partly suspend the Member for up to three months on the condition that the suspension or partial suspension will end if the Member apologises in writing, receives any training or takes part in any conciliation that the Committee orders.

- 10.5 On their return, the Chairman will announce the Committee's decision.

11 THE WRITTEN DECISION

The Committee will announce its decision on the day and provide a short written decision on that day. It will also issue a full written decision as soon as reasonably practicable after the meeting.

12. **APPEALS**

If the Member wishes to appeal then the Monitoring Officer will arrange for:

- All necessary information to be sent to the Adjudication Panel for England and any appeals tribunal which will hear the appeal
- The Council to be represented at any appeal by an officer and the member who chaired the hearing

The Monitoring Officer will report the decision of the appeals tribunal to the Standards Committee, which must comply with the decision.