

ANNEXE 2 HEARINGS PROCEDURE

The procedure for hearings before a Hearings Panel of the Standards Committee.

1. Formal hearings will be conducted by a Ppanel of three councillors drawn from membership of the Standards Committee on the basis of availability plus one of the Independent Persons who will not be a member of the Panel but whose views the Panel must have regard to.
2. The Hearings Panel need not reflect the political proportionality of the Council as a whole.
3. A member of the Standards Committee, against whom a Code of Conduct complaint has been made, shall not be selected as a member of a Hearings Panel until consideration of their complaint has been concluded.
4. Agendas for Hearings Panels shall be published and hearings panels shall be held in public unless:
 - a) This would involve disclosure of exempt information as defined by Schedule 12A, Local Government Act, 1972; and
 - b) In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
5. Before a Hearing Panel meets, the Monitoring Officer shall write to the Subject Member and to the complainant, asking each:
 - a) whether they accept the finding in the investigation report
 - b) whether they dispute any factual part of the report, identifying any areas of dispute.
 - c) whether they wish to call any witnesses at the hearing- (only witnesses identified to the Investigating Officer by the complainant or by the Subject Member may be called as witnesses. In law, witnesses do not have to attend a Hearings Panel)
 - e)d) 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
 - e)e) accordingly)
 - e)f) whether they wish to be accompanied at the hearing – however, that person would not have any right to speak.
6. Where the investigation has not been carried out by the Monitoring Officer, the Monitoring Officer will also ask the investigator if they wish to call any witnesses in addition to any called by the Subject Member or complainant. (Only witnesses identified as part of the investigation may be called as witnesses – as 5c above)
7. In advance of a meeting of a Hearing Panel its members shall seek to agree who will chair the hearing. The Chair may issue directions about the conduct

of the hearing, including the number and suitability of suggested witnesses. A member of a Hearing Panel shall not act as Chair unless they have received relevant training.

8. Subject to the discretion of the Chair, the hearing shall be conducted as follows:
 - a. ~~a.~~ The Investigating Officer will be invited to present their report and to call witnesses. The complainant, the Subject Member and the Panel (including the Independent Person), in that order, may ask questions or seek clarification both of the Investigating Officer and any witnesses.
 - b. ~~b.~~ The complainant will be invited to comment on the report and its findings and to call witnesses. The Investigating Officer, the Subject Member and the Panel (including the Independent Person), in that order, may ask questions or seek clarification both of the complainant and any witnesses.
 - c. ~~c.~~ The Subject Member will be invited to comment on the report and its findings and to call any witnesses. The Investigating Officer, the complainant and the Panel (including the Independent Person), in that order, may ask questions or seek clarification both of the Subject Member and any witnesses.
 - d. ~~d.~~ The Investigating Officer, the complainant and the Subject Member will be invited, in that order, to make brief concluding remarks.
9. ~~8.~~ The Chair and Hearings Panel, including the Independent Person, may ask for advice at any stage from the Monitoring Officer or another officer appointed to advise the committee.
10. Once the hearing has been concluded, ~~the Independent Person will express their views.~~ ~~The Hearings Panel and the Monitoring Officer,~~ without the Independent Person, will then retire to consider its decision. ~~It may call on the Monitoring Officer or another officer to provide advice and guidance.~~ The Hearings Panel is required to do the following:
 - (i) to ~~make findings of the facts~~ decide on the facts,
 - (ii) to decide on whether these facts constitute a breach of the Code of Conduct, and
 - (iii) where a breach is found, to decide on the appropriate sanction.
11. In deciding whether or not to uphold the complaint the Hearings Panel must apply, as the standard of proof, the balance of probability.
12. The Hearings Panel will then return and announce its findings on whether there has been a breach of the Code, ~~with reasons.~~
13. Following announcement of the Hearing Panel's findings, the Investigating Officer, the complainant and the Subject Member will be invited to make submissions, if necessary, regarding remedies or sanctions.
14. ~~The Hearings Panel with~~ Panel with the Monitoring Officer [and the Independent Person] will then retire again to consider what, if any, sanction it wishes to impose. It will then announce its decision and give reasons.

45.14. Following the hearing, a Decision Notice will be issued within 7 working days, and a copy shall be sent to the complainant and Subject Member.

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

47.16. The 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.

Sanctions available to a Hearings Panel

48.17. The Hearings Panel has powers to take action in respect of individual councillors as necessary to promote and maintain high standards of conduct.

49.18. The Hearings Panel may do one, or a combination, of the following:

- a) report its findings in respect of the Subject Member's conduct to Council (or the relevant Parish Council);
- b) issue (or recommend to the Parish Council to issue) a formal censure;
- c) recommend to the Subject Member's Group Leader (or in the case of ungrouped members, recommend to Council) that he/she be removed from any or all Committees or Sub-Committees of the Council (or recommend such action to the Parish Council);
- d) recommend to the Leader of the Council that the Subject Member be removed from positions of responsibility ;
- e) instruct the MO to (or recommend that the Parish Council) arrange training for the Subject Member;
- f) recommend to Council (or recommend to the Parish Council) that the Subject Member be removed from all outside appointments to which he/she has been appointed or nominated by the Council (or by the Parish Council);
- g) recommend to Council (or recommend to the Parish Council) that it withdraws facilities provided to the Subject Member by the Council for a specified period, such as a computer, website and/or email and internet access; or
- h) recommend to Council (or recommend that the Parish Council) that it excludes the Subject 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 and/or restricts contact with officers to named officers only;
- i) if relevant recommend to the Council that the Subject Member be removed from their role as Leader of the Council