

Hearing Panel Procedure

COMPLAINTS AGAINST MEMBERS
HEARINGS PROCEDURE

This is a guidance note setting out how the Hearing Panel will hear complaints that the Code of Conduct has been breached. The purpose of a hearing will be to determine if the Panel agrees with the findings of the investigation.

1. Following receipt of the investigation report the Monitoring Officer will contact the member complained of (the “subject member”) and any relevant witnesses to arrange a date and time for the Conduct Hearing.
2. All paperwork submitted to the Monitoring Officer will be collated into a report for the Hearing Panel and issued in accordance with the statutory requirements for access to information.
3. The hearing will take place in public.
4. The hearing will be before a panel of members drawn from the Standards Committee.
5. The Independent Person [IP] appointed under section 28 of the Localism Act 2011 will also be present to sit alongside the Panel. At the conclusion of each party’s case the IP will be invited to provide their view of the facts as presented and whether or not these represent a breach of the Code of Conduct. The IP’s opinion will be taken into account by the Panel, but by law the Independent Person may not vote.
6. The Monitoring Officer or Deputy Monitoring Officer will be present to advise the Panel. References to the Monitoring Officer within this document can therefore also be taken to be references to the Deputy Monitoring Officer as appropriate.
7. The Investigator will attend to present the investigation report and may invite the complainant to appear as a witness or call other witnesses.
8. The subject member will be invited to attend and may present their own case or they may be represented. Details of any representative attending should be notified to the Monitoring Officer within 2 days of the hearing.
9. The subject member may bring witnesses (of a number the Panel considers is reasonable). Details of witnesses should be provided to the Monitoring Officer within 8 days of the hearing.
10. The cost of any attendance/representation must be borne by the party concerned.
11. The Monitoring Officer can speak at any time to advise the Panel on technical matters or ask questions of any party.
12. Although no formal time limits will be imposed on the presentations the Chair will have the right to curtail excessive presentations. The Panel will concentrate on those areas of the investigation that are in dispute and all parties are asked to be as succinct as possible and ensure all information presented is relevant.
13. All information will be issued prior to the hearing. Any party who intends to put additional written material before the Panel should ensure sufficient copies of the

material are provided. Any information submitted at the hearing can only be done with the consent of all parties, the late production of material may lead to the hearing being adjourned and is discouraged.

HEARING PROCEDURE	
PRELIMINARY MATTERS	
1	The Chairman of the Panel will introduce the members of the Panel, the Independent Person, officers, the subject member, the Investigator and the complainant if present. The Chair will ask any other parties or witnesses to introduce themselves.
2.	The Chairman will explain the reason for the meeting and outline the procedure to be followed. The Chairman may choose to vary this procedure if they are of the opinion that such a variation is necessary in the interests of fairness.
3.	The Chairman will confirm that all those involved understand the procedure to be followed and ask if there are any preliminary procedural issues which anyone wishes to raise before the Hearing begins.
4.	If any procedural issues are raised, the Panel will hear representations and determine them before beginning the hearing.
5.	If the subject member is not present at the start of the hearing, the Panel will consider any reasons given by them for their non-attendance. If the Panel is satisfied that there is good reason for their non-attendance, it may adjourn to another date, or proceed if it has been requested to do so by the subject member.
6.	If the Committee is not satisfied that there is good reason for the subject member's non-attendance, or the subject member has indicated that they do not intend to be present the Hearing Panel shall consider if it is able to continue to hear the matter in their absence. The committee shall have regard to the following factors: <ul style="list-style-type: none"> ● Any reasons provided by the subject member; ● Any representative or written representations present from the subject member; ● The view of the subject member as to whether the hearing should proceed; ● Any comments from the Monitoring Officer.
HEARING	
7.	The Investigator will be invited to summarise his/her report and findings. The Investigator may call any witnesses including the complainant. The subject member and/or their representative may ask any relevant questions of the Investigator and their witnesses. The Panel and the Monitoring Officer may ask any relevant questions of the Investigator and their witnesses.

8.	<p>The subject member will then have an opportunity to present their case including calling any witnesses.</p> <p>The Investigator may ask relevant questions of the subject member and their witnesses.</p> <p>The Panel and the Monitoring Officer may ask relevant questions of the subject member and their witnesses.</p>
9.	<p>The Committee has the discretion to question any of the parties as they see fit and at the discretion of the Chair the Independent Person may also question any of the parties.</p>
10.	<p>The Monitoring Officer may ask questions of any party at any time and may speak at any time to advise the Panel on legal or technical matters.</p>
11.	<p>The subject member and the Investigator will be given the opportunity to present a summary of their position to the Panel if they wish to do so.</p>
12.	<p>The Independent Person will be invited to provide their view of the facts as presented to the Panel and whether or not these represent a breach of the Code of Conduct.</p>
13.	<p>The Panel and the Independent Person will retire with the Monitoring Officer to consider the matter in private. The Monitoring Officer and Independent Person will not take part in the decision making but the Monitoring Officer may be called to give legal advice or clarify any of the evidence as required.</p>
<p>THE DECISION</p>	
14.	<p>The Chairman will confirm the Panel's decision as to whether or not the subject member has failed to comply with the Code of Conduct and set out the facts upon which the conclusions have been reached.</p>
15.	<p>If the Panel decides that the subject member has not failed to follow the Code of Conduct, the hearing will be concluded.</p>
16.	<p>If the Panel decides that the subject member has failed to comply with the Code of Conduct, it will consider any verbal representations from the Investigator, the Monitoring Officer, and the subject member as to:</p> <p>(a) whether or not the Panel should impose a sanction and/or recommend to Council that a sanction be imposed; and</p> <p>(b) what form of sanction(s) is/are appropriate.</p>
17.	<p>The Panel and Independent Person may retire with the Monitoring Officer to consider these representations in private. The Monitoring Officer will not take part in the decision making but may be called upon to give legal advice or clarify the options as required.</p>

18.	The Chair will announce the Panel's decision in public at the conclusion of the hearing and as soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice to be sent to the complainant, subject member and the parish council in the case of a complaint about a Parish Councillor. The decision will be published and reported to the next convenient meeting of the Standards Committee.
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SANCTIONS

Under the Council's Arrangements for dealing with Complaints, the Council has decided that the Hearing Panel may issue one or a combination of the following sanctions:-

- a. Send a formal letter to the Subject Member;
- b. Issue a formal Censure;
- c. Publish its findings in respect of the Subject Member's conduct;
- d. Report its findings to Council (or to the Parish Council) for information;
- e. Recommend to the Subject Member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- f. Recommend to the Leader of the Council that the Subject Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- g. Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Subject Member;
- h. Recommend to the Subject Member's Group Leader that he/she is removed ([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 authority (or by the Parish Council);
- i. In the case of a co-opted Member, recommend to Council (or to the Parish Council) that he/she be removed from the Council or any of its committees, sub-committees or working groups;
- j. Withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the Subject Member by the Council (such as a computer, website and/or email and Internet access) for a specified period; or
- k. Exclude (or recommend that the Parish Council exclude) 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.

The Hearings Panel has no power to suspend or disqualify the Subject Member or to withdraw members' or special responsibility allowances. It also has no power to impose a sanction which would fetter the otherwise appropriate activities of a democratically elected representative.