



Joint Standards Committee**23 September 2021**

Report of the Monitoring Officer

Model Code Update – Review of Procedures**Summary**

This report provides the Joint Standards Committee with the current procedures in place, which will need to be reviewed in light of the new Model Code of Conduct.

Background

The Committee will be aware that a set of procedures are in place which deal with different stages in Standards complaints. The Committee had indicated that they wished to review the procedures after the Model Code of Conduct had been considered by Full Council and implemented, however, recent Joint Standards Committee Hearing Panels has brought to light procedural issues which has led to the Chair and Vice Chair of the Committee, along with other Members of the Committee to request that the procedures be reconsidered as a matter of urgency.

The procedures are annexed as follows:

- Annex A – Complaints Procedure
- Annex B - Assessment Criteria
- Annex C – Pre Hearing Procedure
- Annex D – Pre Hearing Checklist
- Annex E – Hearing Procedure

Implications**Financial**

Not applicable to this report.

Human Resources (HR)

Not applicable to this report.

Equalities

The Equality Act 2010 places specific duties on Local Authorities. Having a clear and concise Code of Conduct and procedures which aid the process and prohibits unlawful discrimination gives the public confidence in Members and the Council as a whole.

Legal

As detailed within the report.

Crime and Disorder, Information Technology and Property

Not applicable to this report.

Recommendations

Members are asked to consider whether a review of the procedures is required now and if so, how this review will be conducted.

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**Report
Approved**

Date 14/09/2021

Specialist Implications Officer(s):

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Background Papers:

- Annex A – Complaints Procedure
- Annex B - Assessment Criteria
- Annex C – Pre Hearing Procedure
- Annex D – Pre Hearing Checklist
- Annex E – Hearing Procedure

Complaints about the ethical conduct of Councillors

This document is intended to inform those who wish to make a complaint about a City or Parish Councillor where they believe that the Councillor may have breached the Code of Conduct. The Council want to ensure that the process is as transparent as possible and that complaints are dealt with as quickly as possible.

1 The Code of Conduct

All City and Parish Councillors must follow a Code of Conduct which their Council has agreed. You can find a copy of the City Council's Code on the Council's website on this link:

[http://democracy.york.gov.uk/ecSDDisplay.aspx?NAME=SD569&ID=569&RPID=6449972&sch=doc&cat=12830&path=12830,](http://democracy.york.gov.uk/ecSDDisplay.aspx?NAME=SD569&ID=569&RPID=6449972&sch=doc&cat=12830&path=12830)

or, inspect a paper copy by contacting the Democratic Services team who are based at West Offices telephone number (01904) 551550.

Parish Council's Codes of Conduct can be inspected by contacting the Clerk to the relevant Parish Council.

The City Council is responsible for putting in place arrangements for dealing with complaints that a Councillor from either the City Council or a Parish Council within York may have breached the Code of Conduct. In dealing with complaints the Council consults with Independent Persons who are not connected with the Council or Councillors and are appointed to deal with these matters.

2 Making a complaint

If you wish to make a complaint, please write or email to –

The Monitoring Officer
West Offices
Station Rise
York
YO1 6GA

Or – monitoringofficer@york.gov.uk

The Monitoring Officer is a senior officer of the City Council who is responsible for administering the system in respect of complaints of Councillor Misconduct.

So that we have all the information which we need to be able to process your complaint, we ask that you complete our complaint form, which can be downloaded from the authority's website and is available on request from the Democratic Services team at West Offices.

This complaints procedure allows for a Councillor to refer themselves if they so desire, or if they feel it is in the interests of clarity. The referral will be dealt with in the same way as a complaint made by anyone else using this procedure.

The Monitoring Officer will normally acknowledge receipt of your complaint within 7 working days of receiving it, and will keep you informed of the progress of your complaint, including reasons as to why they decide to close the complaint or not progress further. Regardless of the outcome of your complaint or the stage the complaint is concluded, you will be advised as to the outcome of the complaint.

3 Privacy

We ask you to provide your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. This also guards against malicious complaints. The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so. We only use the information you provide for the purposes of dealing with your complaint.

Your contact details will not normally be shared unless it is essential for the handling of the complaint – such as where knowing your address is important to understanding the context of the complaint.

The Monitoring Officer will normally share your name with:

- The Councillor concerned;
- The Independent Persons who advise on the handling of complaints;
- The Parish clerk if the councillor concerned is a member of a Parish Council;
- Any investigator appointed to deal with the case;

ANNEX B

- Members of any Committee or Sub Committee of the Council who are handling the case;
- Any witnesses to the allegations where that is necessary to enable a proper investigation.

We may be required or permitted, under data protection legislation, to disclose your personal data without your explicit consent, e.g. if we have a legal obligation to do so, such as law enforcement, regulation and licensing, criminal prosecutions and court proceedings.

If you are concerned about your identity being revealed please advise the Monitoring Officer and he/she will discuss this with you before processing the complaint.

The identity of the Councillor who is the subject of the complaint should remain confidential, particularly during the assessment and investigation stages of the complaints process. This is vital to ensure that the investigation is not prejudiced; therefore, you should not divulge the identity of the Councillor, nor the nature of the complaint to the public whilst the complaint is being investigated. The Monitoring Officer will also request that the Councillor maintains privacy and confidentiality, particularly in relation to your personal details whilst the complaint is being investigated.

You should note that if your complaint is investigated and results in a hearing these are usually conducted in public, that would mean your identity or personal data would be in the public domain.

We will retain details of standards complaints for 6 years and will then delete or destroy those details securely.

You can find more information about your rights at <https://www.york.gov.uk/privacy> and further information is available from the Information Commissioners Office (ICO) <https://ico.org.uk/for-the-public/>.

If you have any questions about this privacy information, want to exercise your rights, or if you have a complaint about how your information has been used, please contact us at foi@york.gov.uk or on [01904 554145](tel:01904554145) or write to:

The Data Protection Officer
City of York Council

West Offices, Station Rise
York, YO1 6GA.

4 Will your complaint be investigated?

The Monitoring Officer will review every complaint received. He/she may ask you to clarify aspects of it before deciding whether to accept it as a formal complaint.

The Monitoring Officer will then take a decision as to whether the complaint merits formal investigation. Where the Monitoring Officer feels that the case does merit formal investigation, he/she will consult with 1 of the Independent Persons in order to provide an external oversight. This decision will usually be taken within 7 working days of your complaint being accepted. The Monitoring Officer will also notify the Councillor involved in the complaint within 7 working days of your complaint being accepted.

Before reaching a decision, the Monitoring Officer may request further information from you or obtain information which is readily available to him/her such as notes of Council meetings. If the complaint relates to a Parish Councillor the Monitoring Officer may consult the Parish Council. If they consider it appropriate to do so, the Monitoring Officer may put the complaint to the Councillor involved and seek their comments.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. If a Councillor makes a reasonable offer to settle a complaint informally, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

The Monitoring Officer will advise you whether he/she intends to investigate your complaint. If the Monitoring Officer decides not to he/she will explain why. There is no right of appeal against this decision but the Monitoring Officer reports their decisions to the Council's Joint Standards Committee so there is oversight of how these matters are dealt with.

If there is evidence that a crime may have been committed the Monitoring Officer has the power to report matters to the Police and other regulatory agencies.

Occasionally, the Monitoring Officer may decide that the decision as to whether a complaint should be investigated should be made by members of the Joint Standards Committee. In this case a small Sub Committee of 2 Members of the Joint Standards Committee which consists of City and Parish Councillors will meet to consider your complaint. At least 1 Independent Person will be present or will be consulted ahead of the Sub Committee considering your complaint.

Examples of matters which the Sub Committee will consider include multiple complaints made about the same Councillor, counter complaints made by Councillors about each other, vexatious or repeated complaints or where special procedures may need to be implemented to classify complaints.

In the rest of this procedure we have assumed that the Monitoring Officer will use their powers to make decisions but any Sub Committee appointed will have the same powers as the Monitoring Officer.

If the Monitoring Officer makes the decision to investigate your complaint, he or she will advise you of this within 7 working days. If the decision has been referred to a Sub Committee, a decision will be made as soon as is practicable.

3 How is the investigation conducted?

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer. The Investigating Officer may be another officer of the authority, an officer of another authority or an external investigator.

The Investigating Officer will usually need to speak to you to discuss your complaint and may need to see relevant documents or interview other witnesses. You will be able to suggest what documents and which witnesses the Investigating Officer should consider seeing.

The Investigating Officer will also normally see the Councillor and provide him or her with the same opportunity to identify sources of evidence.

Unless the case is very straightforward, at the end of his/her investigation, the Investigating Officer will produce a draft report and share it with you and the Councillor concerned on a confidential basis.

You will both then be able to identify any matter in that draft report with which you disagree or which you think need more consideration.

The Investigating Officer will consider any comments you make before sending his/her final report to the Monitoring Officer.

Investigations will be completed within 3 months of the investigator being instructed. There may be very good reasons why this is not possible, for example, where the case is complex or witnesses are not available. Where there are delays, this will be reported to the Chair of the Standards Committee, the complainant and the Councillor who is the subject of the complaint prior to the end of the 3 month period.

The complainant and Councillor are expected to keep the circumstances of the complaint confidential and failure to do so could have a detrimental impact on the complaint or the complaints process.

4 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and may ask for further investigation to take place if he/she feels that is needed. The Monitoring Officer will consult the Independent Persons on the draft report and following such consideration, if he/she is satisfied that the report is sufficient and accepts the finding, the Monitoring Officer will send a copy of the Investigating Officer's final report to you and the Councillor concerned. If the case concerns a Parish councillor he/she will also send a copy to the Parish Council concerned. That will be the end of the matter.

It is possible that the Monitoring Officer may accept that the report is complete but does not accept the Investigating Officer's judgment that there has been no breach of the Code. In that case the Monitoring Officer may refer the case for a hearing following the procedures set out below.

5 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer may either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Persons, seek local resolution.

5.1 Local Resolution

If the Monitoring Officer thinks that the complaint can reasonably be resolved without the need for a hearing he/she will consult with the Independent Persons and with you and seek to agree what you consider to be a fair resolution. It is important though that any resolution also helps to ensure higher standards of conduct for the future. Possible local resolutions might include the Councillor accepting that his/her conduct was unacceptable and offering an apology or a Councillor voluntarily giving up a position on a particular body. If the Councillor complies with the suggested resolution, the Monitoring Officer will report the matter to the Joint Standards Committee (and the Parish Council, where relevant) for information, but will take no further action.

Although the complainant's views will be carefully considered the decision as to whether a complaint can be resolved without a hearing rests with the Monitoring Officer if the breach is minor.

5.2 Local Hearing

If the complaint is not resolved through the local resolution process, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel. Ordinarily a Sub Committee will be chaired by the Chair or Vice-Chair of the Joint Standards Committee and comprise of other members of the Joint Standards Committee. At least one Member will be a Parish Councillor where the complaint relates to a Parish matter. Subject to that, Hearings Panels are appointed by approaching Members of the Standards Committee in rotation with the Member being appointed if they are available to attend the hearing. 1 or more Independent Persons will be present at the hearing.

The Hearings Panel will take evidence and reach a decision. This is not a Court process but, in order to be fair to everyone, formalities are followed so that a proper decision can be reached. A detailed hearings procedure is available to view.

The Hearings Panel is not bound to accept the Investigating Officer's finding that the Code has been breached but if it does conclude that the Councillor failed to comply with the Code of Conduct, it will consider what action, if any, should be taken. In

doing this, the Hearings Panel will consult the Independent Person(s).

6 What action can the Hearings Panel take where a Councillor has failed to comply with the Code of Conduct?

The Hearings Panel may –

- 6.1 Censure the Councillor;
- 6.2 Formally report its findings to the City Council or Parish Council for information;
- 6.3 Recommend to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub Committees of the Council;
- 6.4 Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 6.5 Recommend to Council that the Leader be removed from Office;
- 6.6 Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Councillor;
- 6.7 Remove (or recommend to the Parish Council that the Councillor be removed) from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Parish Council);
- 6.8 Withdraw (or recommend to the Parish Council that it withdraws) facilities provided to the Councillor by the Council, such as a computer, website and/or email and Internet access.

The Hearings Panel has no power to suspend or disqualify the Councillor or to withdraw Councillors' basic or special responsibility allowances. If the Panel decides to withdraw facilities from the Councillor it must ensure that the Councillor is not thereby prevented from undertaking his/her representative duties.

7 What happens after the hearing?

The Monitoring Officer will prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, the Councillor and if applicable, to the Parish Council. The decision notice will be available for public inspection.

8 Who are the Hearings Panel?

The Hearings Panel is a Sub Committee of the Council's Joint Standards Committee. It normally consists of 3 Members.

The Independent Persons are invited to attend all meetings of the Hearings Panel and their views are sought and taken into consideration before the Hearings Panel takes any decision on whether the Councillor's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct. The decision is that of the Hearings Panel, however, if the Independent Person's advice is contrary to the Panel decision, this will be recorded.

9 Appeals

There is no internal right of appeal for either the complainant or for a Councillor against a decision of a Monitoring Officer, however, if, as a complainant you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman. There may also be the possibility of an application for Judicial Review of the decision.

City of York Council Joint Standards Committee Assessment Criteria for complaints

1. Background and Context

- 1.1 The Joint Standards Committee's arrangements for dealing with complaints are described in more detail in a separate document available from the Monitoring Officer and on the City Council's website.
- 1.2 The first decision to be made when a complaint is received is whether or not it should be referred for investigation. That decision is normally made by the Monitoring Officer but may be made by a Sub Committee of Members of the Standards Committee. In making the decision regard will be had to the following criteria.

2. Is the complaint covered by the Code?

- 2.1 Is the complaint about the conduct of a member?

The complaint must relate to one or more named elected or co-opted members of the district or parish councils covered by the Standard Committee i.e. within the City of York Council Area.

- 2.2 Was the named member in office at the time the alleged misconduct took place?
- 2.3 Does the allegation relate to the Member's conduct as a Councillor?

Complaints which relate to a Councillor's private life rather than their Council business are unlikely to be covered by the Code.

- 2.4 If the complaint is proven, would there be a breach of the Code under which the member was operating at the time of the alleged misconduct?

Codes of Conduct are concerned with Members' ethical behaviour. Sometimes complaints are received about decisions which

Councillors have made or about the quality of service provided by a Councillor. These are unlikely to be covered by the Code.

- 2.5 If the complaint is not covered by the Code then it cannot be investigated.

3. Sufficiency of Information

- 3.1 The complainant must provide sufficient information to show that there is a real possibility that there has been a breach of the Code of Conduct. If insufficient information is available the case will not normally be referred for investigation.

4. Seriousness of the Complaint

- 4.1 A complaint will not normally be referred for investigation or other action where the complaint appears to be trivial, vexatious, malicious, politically motivated or tit for tat.

5. Length of Time Which Has Elapsed

- 5.1 A complaint will not normally be investigated where the events took place more than 6 months prior to the complaint being submitted. An exception to this may arise where the conduct relates to a pattern of behaviour which has recently been repeated.

6. Public Interest

- 6.1 Consideration will be given as to whether the public interest would be served by referring a complaint for investigation or other action. They may consider that the public interest would not be served where, for instance, a member has died, resigned or is seriously ill.
- 6.2 The Standards Committee encourages informal resolution of complaints where it is in the public interest to do so. In some cases a speedy apology to the complainant may be the most effective outcome. In a case where the Code has been breached through ignorance an acceptance of fault from the Councillor together with an offer of training or a briefing from the Monitoring Officer, may be sufficient.

6.3 If the complaint has already been the subject of an investigation or other action relating to the Code of Conduct or the subject of an investigation by other regulatory authorities, it is unlikely that it will be referred for investigation or other action unless it is evident that the public interest will be served by further action being taken.

7. Anonymous Complaints

7.1 Anonymous complaints will not normally be entertained unless there is additional documentary evidence to support the complaint.

Pre Hearing Procedure

1. Where a decision has been made that a complaint needs to be referred for a hearing then a Sub Committee meeting will be arranged for that purpose. The Sub Committee will sit as a Hearing Panel.
2. A copy of the final investigation report will be sent to the Subject Member, the complainant and to the Independent Persons. If the complaint relates to the Subject Member's conduct as a parish councillor then a copy will also be sent to the Clerk to the Parish Council.
3. The Subject Member and the complainant will be asked to confirm within fifteen working days whether he/she:
 - Disagrees with any of the findings of fact in the report and the reasons for any disagreement
 - Wishes to be represented by a solicitor or barrister, or by any other person (such representation should not normally be necessary)
 - Wishes to attend the hearing
 - Wishes relevant witnesses to be called to give evidence to the Panel
 - Wishes any part of the hearing to be held in privateⁱ
 - Wishes any part of the Investigating Officer's report or other relevant documents to be withheld from the publicⁱⁱ
4. The Subject Member and the complainant will be informed that if, at the meeting of the Committee, he/she seeks to dispute any matter contained in the Investigating Officer's report without having previously notified the intention to do so, the Committee may refuse to allow the disputed matters to be raised unless satisfied that there are good reasons why they have not been raised beforehand.

5. Upon receipt of the Member's and complainant's responses, the Investigating Officer shall be invited to comment on it within ten working days, and to say whether or not he/she:
 - Considers that the Committee should request other witnesses to give evidence or submit written or other evidence to the Committee
 - Believes any part of the hearing should be held in private
 - Believes any part of the report or other relevant documents should be withheld from the public


6. The Monitoring Officer will consider the responses and set a date for the hearing in consultation with the Chair of the Panel.
7. The Monitoring Officer together with the Chair of the Hearing Panel will consider which witnesses should be invited to attend. Witnesses may not be called if the number requested is unreasonable and it appears that some witnesses will simply be repeating the evidence of earlier witnesses, or else not providing evidence that will assist the Panel to reach its decision.
8. The Chair of the Hearing Panel may request the attendance of any additional witnesses whose evidence he/she considers would assist the Panel to reach its decision. The Panel does not though have powers to compel any witness to attend.

9. The Monitoring Officer will:
 - Confirm a date, time and place for the hearing
 - Confirm the main facts of the case that are agreed
 - Confirm the main facts that are not agreed
 - Provide the Panel with a copy of the investigating officer's report
 - Provide copies of any other written evidence to the relevant parties and the Panel

- Confirm which witnesses will be called by the parties
- Provide the parties with copies of the proposed procedure for the hearing.

ⁱ The Standards Committee's general position is that hearings should be held in public and that documents should be publicly available in advance of the meeting. However, there may be circumstances in which fairness to individuals dictates and the provisions of schedule 12A to the Local Government Act 1972 allow, information to be considered in private. The Proper Officer of the Council will decide whether papers should be publicly available in advance and the Sub Committee will determine whether all or part of the meeting should be in private.

ⁱⁱ See note i

City of York Council Standards Committee	
Pre Hearing checklist	
Complainant	
Subject Member	Councillor
Investigating Officer	
Do you intend to attend the proposed hearing to give evidence or make representations	
Yes/No	
Do you wish to be represented at the hearing by a solicitor, barrister or another person.¹	
Yes/No	
If so by who?	
<i>Name of representative and capacity in which they act: e.g. solicitor, friend, fellow Councillor</i>	
Do you wish the whole or any part of the hearing to be in private?	
Yes/No	
If yes please explain why²	

¹ Although there has to be a degree of formality to the proceedings of the committee it will be unusual for subject members to be represented. The procedure is not adversarial. The Committee will act in an inquisitorial manner to ensure that the circumstances of the case are fully understood.

² The Standards Committee's general position is that hearings should be held in public and that documents should be publicly available in advance of the meeting. However, there may be circumstances in which fairness to individuals dictates and the provisions of schedule 12A to the Local Government Act 1972 allow, information to be considered in private. The Council's proper officer will determine whether papers should be publicly available and the Hearing Sub Committee will determine whether the meeting or any part of it should be in private.

Do you wish any part of the Investigating Officer's report or other relevant documents to be withheld from the public?

Yes/No

If yes please explain why³

Do you disagree with any of the facts found by the investigating officer as set out in his her report?

Yes/No

If yes please set out briefly the facts that you dispute and your view as to the true factual position

³ The Standards Committee's general position is that hearings should be held in public and that documents should be publicly available in advance of the meeting. However, there may be circumstances in which fairness to individuals dictates and the provisions of schedule 12A to the Local Government Act 1972 allow, information to be considered in private. The Council's proper officer will determine whether papers should be publicly available and the Hearing Sub Committee will determine whether the meeting or any part of it should be in private.

Do you believe that witnesses should be called to the Hearing
<i>Yes/No</i>
If yes please identify the witnesses who you wish to be called and briefly identify the issues that they will be able to give evidence about⁴

⁴ The Monitoring Officer and Chair will consider whether any witnesses you name are likely to be able to give evidence which will be of value to the Hearing Panel. If they are then those witnesses will be invited to attend. The Panel cannot compel the attendance of any witness.

CITY OF YORK COUNCIL STANDARDS COMMITTEE HEARING PROCEDURE

General Matters

1. In this procedure the term “interested parties” is used to cover the complainant, the subject member and the investigating officer. The interested parties will all be invited to attend the hearing as potential witnesses.
2. The Independent Persons will also be invited to attend the hearing in an advisory, non-voting capacity. Their views will be sought as to whether the evidence establishes a breach of the code of conduct and, if so, as to what if any penalty should be imposed.
3. The Hearing Panel will be made up of members of the Standards Committee and there will normally be three members. The Panel will be supported by the Monitoring Officer or his representative and a democratic services officer.
4. The meeting will be open to the press and public unless confidential or exempt information is likely to be disclosed. The Standards Committee considers that in general the public interest in seeing that complaints relating to Councillors are handled properly will outweigh any considerations relating to the privacy of the Councillor concerned but each case will be considered on its own merits including consideration of the privacy of other parties.
5. The hearing will normally follow the procedure set out below but the Chair has the discretion to vary it at any time. Such a variation may be considered where, for example, the Chair believes that doing so will be in the interests of fairness or help in establishing the facts of the case.
6. It will not usually be necessary for the Subject Member to be represented at a hearing but he or she may choose to arrange such representation which may be by a solicitor, barrister or another person.
7. The Panel may take legal advice at any time during the hearing or during its deliberations. The substance of any advice given to the Panel will normally be shared with the parties.

Preliminary procedures

8. Prior to the hearing commencing the Panel may meet privately to review the material presented and to agree the main lines of enquiry.
9. At the start of the hearing, the Chair will arrange introductions of the Panel, its Officers, the Independent Persons and the interested parties. The Chair will briefly explain the procedure which the Panel will follow in the conduct of the hearing. The Chair will confirm that each interested party has seen the final report of the investigating officer and has had the opportunity to engage in the pre hearing procedures.
10. The Monitoring Officer will identify whether the pre hearing procedures have identified any significant disagreements about the facts contained in the Investigating Officer's report. The Panel will record the agreed facts and establish the facts in dispute which they will be required to rule upon.
11. If a party raises an issue which has not been raised previously then that party shall be required to give a full explanation to the Panel as to why it was not raised earlier. The Panel may then:
 - a. Consider whether or not to allow the issue that has been raised to be dealt with at the hearing
 - b. Consider whether the hearing should be adjourned for further investigations to take place.

Determining factual disputes

12. If there are disputed facts which the Panel consider relevant to establishing whether the Code has been breached or as to the seriousness of the breach then, the Panel will adopt an inquisitorial approach in establishing the facts. The Chair will invite members of the Panel to ask questions of the interested parties or any other potential witness present. The Monitoring Officer may also ask questions.

13. Once a witness has answered questions from the Panel then the Chair will ask the interested parties whether there are other issues which ought properly to be raised with the witness. The Chair (or another Member) may put any such issues to the witness him or herself or may allow the relevant party to ask questions directly.
14. The Panel must reach a decision as to the facts it finds to be proven. The Panel must also make a decision as to whether the proven facts (including those which are agreed) show a breach of the code of conduct. Depending on the complexity of the case the Panel may consider each of those issues separately or deal with them together. In either case the Chair will invite the parties to make representations on each matter before the Panel reaches its decision.

Panel deliberations

15. When the Panel is considering its finding of facts and whether those facts amount to a breach of the Code of conduct it will do so in private but in the presence of the Monitoring Officer, the Independent persons and the Democratic Services officer.
16. At the conclusion of the Panel's deliberations, the Chair will publicly announce the Panel's findings as to the facts and as to whether those facts show a breach of the code of conduct. The Panel will give reasons for their findings. It will be normal practice to share the substance of any advice given by the Monitoring Officer and Independent persons at this stage.

Determining Sanctions

17. If the Panel concludes that the Subject Member has failed to comply with the Code of Conduct, the Chair will invite representations from the interested parties as to what action, if any, it should take.
18. The Panel will then consider whether to impose a sanction, and, if so, what sanction to impose and when that sanction should take effect. It will do so in private but in the presence of the Monitoring Officer, the Independent persons and the Democratic Services officer.
19. The sanctions available to the Hearings Panel are to –

- Censure the Councillor;
 - Formally report its findings to the City Council or Parish Council for information;
 - Recommend to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that he/she be removed from any or all Panels or Sub-Committees of the Council;
 - Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;
 - Recommend to Council that the Leader be removed from Office (if it is the Leader' conduct that is being considered)
 - Instruct the Monitoring Officer to *[or recommend that the Parish Council]* arrange training for the Councillor;
 - Remove *[or recommend to the Parish Council that the Councillor be removed]* from all outside appointments to which he/she has been appointed or nominated by the authority *[or by the Parish Council]*;
 - Withdraw *[or recommend to the Parish Council that it withdraws]* facilities provided to the Councillor by the Council, such as a computer, website and/or email and Internet access.
20. The Hearings Panel has no power to suspend or disqualify the Councillor or to withdraw Councillors' basic or special responsibility allowances. If the Panel decides to withdraw facilities from the Councillor it must ensure that the Councillor is not thereby prevented from undertaking his/her representative duties.
21. The Chair will publicly announce the decision of the Panel. The substance of any further advice given by the Independent Person and Monitoring Officer will also be shared. Written notice of the findings of the Panel will be given as soon as is reasonably practicable to the Subject Member. They will also be placed on the

council's website. If the complaint was against the Subject Member as a parish councillor, written notice of the findings of the Panel will be sent to the clerk to the parish council.

Other action

22. The Panel may also consider making any recommendations to the Council concerned with a view to promoting higher standards of conduct among its members.

