

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

1. Formal hearings will be conducted by a Panel of three councillors drawn from membership of the Joint 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 be taken into account.
2. The Hearings Panel need not reflect the political proportionality of the Council as a whole.
3. The Monitoring Officer will advise the Panel at the start of the meeting, whether in their opinion the Panel should meet in public or private, having regard to:
  - a) The rules on confidential and exempt information as defined by Schedule 12A, Local Government Act, 1972; and whether
  - b) In all the circumstances of the case, the public interest in maintaining any exemption outweighs the public interest in disclosing the information
4. Where the Hearing is held in public, members of the public will not be allowed to address the Panel on any matter unless they are formally part of the proceedings, for example as a witness.
5. Before a Hearing Panel meets, the Monitoring Officer shall write to the Subject Member asking:
  - 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 the Subject Member wishes to call any witnesses at the hearing (only witnesses identified to the Investigating Officer by the Subject Member may be called as witnesses. In law, witnesses do not have to attend a Hearings Panel)
  - d) whether they wish to be accompanied at the hearing
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. (Only witnesses identified as part of the investigation may be called as witnesses – as 5c above)
7. The MO will also write to the complainant with a copy of the report, notifying them of the date of the hearing and asking them if they wish to attend and/or make any further representations. They are not required to attend and the hearing may continue if the complainant is not present or has made no further representation.
8. In advance of a meeting of a Hearings 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 Hearings Panel shall not act as Chair unless they have received relevant training.

9. 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 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) The Subject Member will be invited to comment on the report and its findings and to call any witnesses. The Investigating Officer and the Panel (including the Independent Person), in that order, may ask questions or seek clarification both of the Subject Member and any witnesses.
  - c) The Investigating Officer and the Subject Member will be invited, in that order, to make brief concluding remarks.
  - d) The Subject Member will remain present throughout the hearing although any witnesses would only be present when being invited to present their evidence.
9. 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, or other officer where the Monitoring Officer is the investigator or has a conflict of interest, will then retire to consider its decision. The Hearings Panel is required to do the following:
  - (i) to make findings of 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. Any officer present is simply there to advise the Panel and is not part of the decision-making process.
12. The Hearings Panel will then return and announce its findings on whether there has been a breach of the Code, and give reasons.
13. Following announcement of the Hearings Panel's findings, the Investigating Officer and the Subject Member will be invited to make submissions, if necessary, regarding remedies or sanctions. The Independent Person may also be asked to give any further views.
14. The Hearings Panel with the Monitoring Officer or other appropriate officer will then retire again to consider what, if any, sanction it wishes to impose. It will then announce its decision and give reasons. Following the hearing, a

Decision Notice will be issued within 3 working days, and a copy shall be sent to the complainant and Subject Member, and to the parish clerk where it is a parish council case.

15. There is no internal right of appeal against a decision on a Code of Conduct complaint.
16. The Decision Notice will be published on the Joint 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**

17. The Hearings Panel has powers to take action in respect of individual councillors as necessary to promote and maintain high standards of conduct.
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 un-grouped 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;
  - j) if relevant recommend to the Secretary or appropriate official of the Group that the Member be removed as Group Leader or other position of responsibility.