

STANDARDS COMMITTEE – LOCAL COMPLAINTS

PROCEDURES AFTER THE ASSESSMENT SUB COMMITTEE

1. When a complaint against a Councillor is received, it is considered by the Assessment Sub Committee of the Standards Committee. The Assessment Sub Committee may do one of the following:
 - a) refer the allegation to the Monitoring Officer to arrange a formal investigation of the allegation; or
 - b) refer the matter to the Monitoring Officer to arrange training, conciliation or other permitted alternative steps; or
 - c) refer the allegation to Standards for England; or
 - d) decide that no action should be taken in respect of the allegation; or
 - e) where the allegation is in respect of someone who is no longer a member of CYC or one of its parishes, but is a member of another relevant authority, refer the allegation to the Monitoring Officer of that other authority.

Notice of the Assessment Sub Committee's decision should be sent out within 5 working days.

Review

2. If the Assessment Sub Committee agrees to take no further action, the complainant has a right to ask for a review. The review must take place within three months of receiving the request for a review. This will be considered by the Review Sub Committee on the papers before it.
3. The Review Sub Committee can make the following decisions:
 - i) refer the allegation to the Monitoring Officer, with an instruction that s/he arrange a formal investigation of the allegation; or
 - ii) refer the matter to the Monitoring Officer directing that s/he arrange training, conciliation or such other appropriate alternative steps as permitted by the Regulations; or
 - iii) refer the allegation to Standards for England; or
 - iv) decide that no action should be taken in respect of the allegation; or

- v) where the allegation is in respect of someone who is no longer a member of CYC or one of its parishes, but is a member of another relevant Authority, refer the allegation to the Monitoring Officer of that other Authority.

Notice of the Review Sub Committee's decision should be sent out within 5 working days.

Investigation

4. If the Assessment Sub Committee decide that there should be a formal investigation, the Monitoring Officer will arrange for that investigation to take place. The final report of the investigation ought to be completed within 6 months of the date of the Assessment Sub Committee decision.
5. The final report of the investigation must be sent to the member complained of, the Standards Committee and any other Standards Committee for an authority where the complained of member is a member. The report may also be sent to the complainant.
6. The report must either find that there has been a failure to comply with the Code, or that there has been no such failure.
7. Following completion of the report, the Assessment Sub Committee will consider the report and decide whether:
 - i) it accepts the finding of no failure to observe the Code of Conduct; or
 - ii) the matter should be referred for consideration at a hearing before the Hearings Sub-Committee; or
 - iii) the matter should be referred to the Adjudication Panel for England for determination (if the Sub Committee believes that the report has disclosed potential breaches of the Code which might lead to a more serious sanction than can be imposed locally).
8. Where there is a finding that there has not been a breach, the Assessment Sub Committee does not have to agree with that finding and may refer the matter for hearing. Where the report finds that there has been a breach, there has to be a hearing.
9. In deciding whether to support the 'no breach' finding, the Assessment Sub Committee can only consider the report. It cannot interview witnesses or take representations from the parties.

Pre Hearing Preparation

10. Where the investigation report finds that a breach of the Code has occurred, a hearing must take place within 3 months of the date when the report was completed.
11. There are a number of steps which need to take place prior to a meeting of the Hearings Sub Committee. The purpose of the pre hearing process is to allow matters at the hearing to be dealt with fairly and efficiently. The pre hearing process should:
 - i) identify whether the member complained of is going to be represented at the hearing by a solicitor, barrister or someone else;
 - ii) identify whether the subject member disagrees with any of the findings of fact in the report;
 - iii) identify whether those disagreements are likely to be relevant to any issue the Sub Committee needs to decide;
 - iv) identify whether evidence about those disagreements of fact will need to be heard during the hearing, what witnesses the member intends to bring and what witnesses the investigating officer/monitoring officer intends to bring;
 - v) clarify the views of the investigating officer/monitoring officer on the issues raised by the member complained of;
 - vi) obtain an outline or statement of what each witness intends to say;
 - vii) clarify whether there are any parts of the hearing which are likely to be held in private;
 - viii) decide whether any part of the investigation report or other documents should be withheld from the public prior to the hearing, because they contain exempt information.
12. Much of this will be done in writing by the Monitoring Officer. Some decisions will be taken in consultation with the Chair of the Hearings Sub Committee.
13. The Monitoring Officer may need to arrange for their role to be carried out by another officer if the Monitoring Officer has been closely involved in the investigation, to avoid any actual or perceived conflicts of interest.
14. It is important to distinguish between the essential facts of the case and any inferences or conclusions based on those facts. The Hearings Sub Committee would normally only hear evidence on disputes over essential facts. It is a matter for the Hearings Sub Committee which

witnesses attend to give evidence. The Hearings Sub Committee may ask for witnesses to attend who have not been called by the other parties. The member complained of may ask to call character witnesses. In general, this evidence is not disputed and can be received in writing.

15. Prior to the hearing, a pre hearing process summary may be produced which:

- sets the time and date of the hearing;
- summarises the allegation;
- outlines the main facts of the case which are agreed;
- outlines the main facts which are not agreed;
- notes whether the member or the investigating officer will attend and/or be represented;
- lists any witnesses;
- sets out the procedure for the hearing.

In more straightforward cases it may not be necessary to undertake the entire pre hearing process, but the member concerned and the investigating officer must be allowed an opportunity to properly present their case. It is important that sufficient time is allocated for the case to be heard.

Hearings Sub Committee

16. The Hearings Sub Committee will meet to determine whether or not a member has breached the Code of Conduct and what sanctions (if any) to impose. This is a formal Committee meeting and not a court. It does not take evidence under oath but decides factual evidence on the balance of probabilities (i.e. that something is more likely than not to have occurred). The Sub Committee has no power to compel witnesses to attend. The Sub Committee can decide not to hear from particular witnesses.

17. The parties to the hearing are the investigating officer and the member complained of. The complainant is not a party nor can they give evidence unless called by either of the other two (or the Hearings Sub Committee itself). If the hearing is held in private, the complainant has no right to attend.

18. The Hearings Sub Committee may govern its own procedure as long as it acts fairly. However, in general the following procedure should be adopted:

- a) any submissions by either party about the conduct of the case including disputes about witnesses, potential new information, new supporting documents and so on. This can include submissions about whether the case should be heard in public or private if this has not been resolved;

Factual issues

- b) the investigating officer to present the evidence of fact on which they rely and to call any witnesses;
- c) the member complained of and members of the hearings Sub Committee to ask questions of the investigating officer and/or their witnesses;
- d) the member complained of present the evidence of fact on which they rely and to call any witnesses;
- e) the investigating officer and members of the Hearings Sub Committee to ask questions of the member and/or their witnesses;
- f) both parties to make submissions on questions of fact;
- g) the Hearings Sub Committee to decide its factual findings;

Whether the facts as found amount to a breach of the Code

- h) the investigating officer to make submissions about whether the facts as found by the Hearings sub Committee constitute a breach of the Code;
- i) members of the Hearings Sub Committee to ask questions of clarification;
- j) the member to make submissions about whether the facts as found by the Hearings Sub Committee constitute a breach of the Code;
- k) members of the Hearings Sub Committee to ask questions of clarification;
- l) the Hearings Sub Committee to decide whether there has been a breach of the Code;

What sanction to impose

- m) the investigating officer to make submissions about factors to be taken into account when the Hearings Sub Committee decides on the appropriate penalty;
- n) members of the Hearings Sub Committee to ask questions of clarification;
- o) the member complained of to make submissions about factors to be taken into account when the Hearings Sub Committee decides on the appropriate penalty;
- p) members of the Hearings Sub Committee to ask questions of clarification;
- q) the Hearings Sub Committee decides on the appropriate penalty.

19 The Hearings Sub Committee will usually announce its decision at the end of the hearing. If possible, a short written notice may be provided on the day but in any event a full written decision will be provided to the parties within two weeks of the hearing. A summary of the decision must be published in at least one local independent newspaper. A summary may also be published on the Council's website. If the

decision is that the member has not breached the Code, the member concerned has to consent to publication.