

## 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 or 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.