

## **Standards Hearings Sub Committee Hearings Procedure**

### **(a) General Principles**

1. The Standards Sub Committee is a formal committee meeting of the Council. However it does act in a quasi judicial manner in that it is obliged to objectively determine facts and draw conclusions from them so as to provide the basis, where justified, for official action, which may affect the legal rights, duties or privileges of the Councillor whose actions led to the investigation (“the Subject Member”).
2. Notwithstanding this, the Sub Committee is not a court of law and therefore the general principle (which is subject to the proviso in paragraph 9 below) is that the Sub Committee will only hear representations directly from the relevant parties as further detailed in Section (c) below. While both the Subject Member and Complainant may have persons attending in support / representation, formal cross-examination of anyone making representations will not be permitted, any questions from the parties shall be directed through the Chairman of the Sub Committee. The Chairman may, at his absolute discretion, permit oral representations from other persons if it is considered necessary and appropriate to do so.
3. The Sub Committee will comprise a Chairman and two other voting members. It will also comprise two non-voting Members being one of the Independent Members and one of the Parish Council Members. The Committee will be advised by a Legal Officer and supported by a Democratic Services Officer (“the clerk”). The Monitoring Officer (or Deputy) and Investigator will also be in attendance. One of the Independent Persons may be in attendance but it is not essential that they are present for the Sub Committee to proceed.

### **(b) Prior to the Hearing**

4. In advance of the Hearing the Monitoring Officer (or his Deputy) will write to the Subject Member and ask them to respond indicating the areas of the Investigator’s report which they disagree with and to detail other information that they think is relevant to the Sub Committee’s deliberations on the matter (“the Subject Member’s Response”). This will enable the Sub Committee to focus on the relevant areas when the Hearing is held.
5. Both the Subject Member and Complainant may provide supporting written statements (either their own or from others) to be provided to the Sub Committee, although there is no obligation on either of the Subject Member or Complainant to provide their own representations in written form, if they are intending to make oral representations at the Hearing.
6. The Monitoring Officer (or his Deputy), having received all the relevant paperwork, will prepare the Hearing Papers which will be presented to the Sub Committee as part of a formal agenda with a covering committee report. The Hearing Papers comprise a Pre-Hearing Summary Report

(providing detail in respect of the allegation including a summary of the allegation and events and also highlighting the areas of disagreement with the Investigator's report), the Investigator's report, the Subject Member's Response, any written statements provided by the parties and a copy of the Hearing's procedure.

7. The presumption will be that the hearing will normally be held in public unless the Sub Committee exercises its discretion to exclude the public from all or part of the hearing in accordance with the Local Government Act 1972. Accordingly once the Hearing Papers have been compiled they will be provided to the Subject Member and Complainant who will have the opportunity to request that the Hearing be held in private. If no such request is made, then the agenda, including the Hearing Papers, will be published and made available in the normal way. If such a request is made, then the Sub Committee will hear representations on the day of the Hearing and then determine whether the matter should be held in public or private. Where such a request is made the formal agenda will be published in the normal way but without the committee report / Hearing Papers available to the public. In the event the Sub Committee determine that the meeting should be held in public then the Chairman will explain that the committee report / Hearing Papers will be published online after the Hearing has taken place.

### **(c) Formalities at the Hearing**

8. The Chairman of the Sub Committee will introduce the members of the Sub Committee, the officers supporting them, the Subject Member, the Complainant, the Monitoring Officer (or Deputy) the Investigator and Independent Member (if present).
9. The Chairman will explain the reason for the meeting and outline the procedure to be followed. The Chairman may choose to vary this procedure in any particular instance where s/he is of the opinion that such a variation is necessary in the interests of fairness.
10. The Chairman will then 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. Should either the Complainant or Subject Member have sought to have the meeting held in private, the Sub Committee will consider that at this stage.
11. If any procedural issues are raised, including whether the Hearing should be held in private, the Sub Committee will hear representations on them, before determining them.
12. If the Subject Member is not present at the start of the meeting, the Sub Committee will consider any reasons given by them for his/her non-attendance. If the Sub Committee 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.

13. If the Sub Committee is not satisfied that there is good reason for the Subject Member's non-attendance, or if the Subject Member failed to give any reason for his/her non-attendance, the Committee can decide:
  - whether to consider the matter and make a determination in the absence of the Subject Member, or
  - agree to adjourn the Hearing to another date.

**(d) The Hearing**

14. The Committee will identify the areas of disagreement between the Investigator and the Subject Member on the Investigation report's facts or conclusions.
15. The Investigator will be invited to make representations in support of his/her report and on anything contained in the Subject Member's Response. The Subject Member shall have the chance to ask questions of the Investigator. The Sub Committee and the Monitoring Officer (or Deputy) will have the opportunity to ask questions of the Investigator.
16. The Subject Member will then be invited to make representations in support of the fact(s) concerned and whether the evidence gives rise to a breach or breaches of the Code of Conduct. The Investigator shall have the chance to ask questions of the Subject Member. The Sub Committee and the Monitoring Officer (or Deputy) will have the opportunity to ask questions of the Subject Member.
17. The Complainant will then be invited to comment on representations made by the Investigator and Subject Member.
18. The Sub Committee has the discretion to question or permit questions of any of the parties at any point, as it sees fit. The Sub Committee shall seek the views of the Independent Person before reaching any conclusion, although this shall not prevent the Sub Committee from continuing with the Hearing if the Independent Person is not in attendance.
19. The Sub Committee will consider what it has heard in private accompanied only by its Clerk. The Sub Committee may ask the Legal Officer to advise them when required.
20. The Chairman will then announce to all present at the Hearing the Sub Committee's decision as to whether or not the Subject Member has failed to comply with the Code of Conduct, whilst setting out the facts upon which the conclusions have been reached.
21. If the Sub Committee decides that the Subject Member has not failed to follow the Code of Conduct, the Committee will then consider whether it should make any recommendations to the Council.

**(e) Sanction**

22. If the Sub Committee decides that the Subject Member has failed to comply with the Code of Conduct, it will consider any verbal or written representations from the Investigator, the Monitoring Officer and the Subject Member as to:
  - a. whether or not the Sub Committee should impose a sanction and/or recommend to Council that a sanction be imposed; and
  - b. what form of sanction(s) is/are appropriate.
  - c. Any mitigation the Subject Member wishes the Sub Committee to take into account
23. The Sub Committee will consider in private, accompanied only by its Clerk [and legal advisor if required] whether or not to impose/recommend the imposition of a sanction on the Subject Member and, if so, what form.
24. The Sub Committee will also consider whether or not it should make any recommendations with a view to promoting high standards of conduct among members of the relevant authority.

**(d) Issue of decision**

25. In announcing its decision in public at the conclusion of the hearing the Sub Committee will also provide a short written decision.
26. The Sub Committee will issue a full written decision including reasons within two weeks of the hearing.