

Local Hearing of Allegations

Hearings Sub-Committee

A sub-committee comprising at least three members of the Standards Committee. The sub-committee will be appointed by the Director of Law and Assurance to undertake a particular hearing, after consultation with the Chairman, from members of the Standards Committee subject to members' availability and ensuring the make-up of the sub-committee includes at least one minority member, and, as far as possible, an even distribution of workload. The sub-committee will be discharged once its work has been completed.

Procedure for Local Determination of Allegations of Member Misconduct by the Standards Committee or Appointed Sub-Committee

The following procedure shall apply to any hearing held by a Hearings Sub-Committee or, in the case of an appeal in accordance with paragraph 32, the Standards Committee to consider a report referred to it by the Monitoring Officer. Where an appeal is limited to certain outcomes only (such as the penalty imposed) the procedure will be adapted accordingly and with the agreement of the member.

Interpretation

1. 'Member' means the member of the County Council who is the subject of the allegation unless stated otherwise. It also includes the member's nominated representative where relevant.
2. 'Investigator' means the investigating officer, and his or her nominated representative.
3. 'Legal adviser' means the officer responsible for providing legal advice to the Committee or sub-committee. This may be the Monitoring Officer, another legally qualified officer of the County Council, or someone appointed for this purpose from outside the County Council.
4. "Committee" means the Committee or any of its sub-committees.
5. "Independent Person" means a person appointed by the County Council to advise the Standards Committee and its sub-committees, particularly on individual cases. A different Independent Person may have advised the member during the investigation process.

Representation

6. The member may be represented or accompanied during the meeting by a solicitor, counsel, or, with the permission of the Committee, another person.

Legal Advice

7. The Committee may take legal advice from its legal adviser at any time

during the hearing or while it is considering what action to take. The substance of any legal advice given to the Committee will be shared with the member and the investigator and any representative if they are present.

Introductions

8. The Chairman will introduce the members and everyone involved and will explain how the Committee is going to conduct the hearing.

Preliminary Procedural Issues

9. The Committee will resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.
10. The Committee will consider any request for an adjournment and, if relevant, take any decision on whether to proceed in the absence of the member.

Process of Hearing and Finding of Facts

11. The Committee will consider whether or not there are any significant disagreements about the facts contained in the investigator's report.
12. If there is no disagreement about the facts, the Committee will move on to the next stage of the hearing.
13. If there is a disagreement, the investigator (if present) will be invited to make representations to support the relevant findings of fact in the report and may call any necessary supporting witnesses to give evidence. The Committee may give the member an opportunity to challenge any evidence put forward by or question any witness called by the investigator.
14. The member will then have the opportunity to make representations to support his or her version of the facts and may call any necessary witnesses to give evidence.
15. At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the investigator to challenge any evidence put forward by or question witnesses called by the member. It may also question the Independent Person.
16. If, during the course of a hearing, the Committee feels that it needs additional evidence, it can adjourn and request the Monitoring Officer to provide such further information or commission further investigation, but the Committee can only do so once on any one matter.
17. If the member disagrees with any relevant finding of fact in the investigator's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it

before the hearing. If the investigator is not present, the Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the member's explanation for not raising the issue at an earlier stage, the Committee will then either:

- (a) continue with the hearing, relying on information in the investigator's report;
 - (b) allow the member to make representations about the issue, and invite the investigator to respond and call any witnesses as necessary; or
 - (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if they are not already.
18. The parties will then withdraw to allow the Committee to consider the representations and evidence in private.
19. Upon the Committee's return, the Chairman will announce its findings of fact.

Did the member fail to follow the Code of Conduct?

20. The Committee will then consider whether or not, based on the facts it has found, the member failed to follow the Code of Conduct.
21. The member will be invited to give reasons why the Committee should not decide that he or she failed to follow the Code.
22. The Committee will then consider any oral or written representations from the investigator.
23. The Committee may, at any time, question anyone involved on any point raised in their representations, including the Independent Person.
24. The member will be invited to make any final relevant points but without introducing new information.
25. The parties will withdraw to allow the Committee to consider the representations.
26. Upon its return, the Chairman will announce the Committee's decision as to whether or not the member has failed to follow the Code of Conduct.

If the member has not failed to follow the Code of Conduct

27. If the Committee decides that the member has not failed to follow the Code, the Committee will move on to consider whether it should make any recommendations to the County Council.

If the member has failed to follow the Code of Conduct

28. If the Committee decides that the member has failed to follow the Code, it will consider any verbal or written representations from the investigator and the member as to:
 - (a) whether or not the Committee should set a penalty;
 - (b) what form any penalty should take.
29. The Committee may question the investigator and member, and take legal advice, to make sure it has the information it needs in order to make an informed decision. It may also seek advice from the independent person.
30. The parties will withdraw to allow the Committee to consider whether or not to impose a penalty on the member and, if so, what the penalty should be.
31. Upon the Committee's return, the Chairman will announce its decision.
32. If the member has been found to have breached the Code they will have the right to appeal against the findings and/or against any penalty in form of a re-hearing by the Standards Committee. Members of the original Hearings Sub-Committee will be excluded from sitting on the Standards Committee when the appeal is heard.

Recommendations to the County Council

33. After considering any oral or written representations from the investigator, the Committee will consider whether or not it should make any recommendations to the County Council, with a view to promoting high standards of conduct amongst members.

Access to Meetings and Decision Making

34. Meetings of the Committee convened to determine allegations of member misconduct will usually include confidential personal information and, in such cases, will not be open to the public or press.
35. The Committee will announce its decision on the day and provide a short written decision on that day. It will also issue a full written decision shortly after the end of the hearing. The decision will be published on the County Council's web site and in such other way as the Committee may decide.

Retention of Papers

36. All papers relating to the investigation and any hearing of an allegation under this procedure shall be retained by the Monitoring Officer until the end of a period of six years from the date of the hearing or other conclusion of the investigation.

37. Written summaries of the proceedings of the Committee will be produced and made available for inspection if this would not be in breach of any duty of confidence or data protection principle.