

Part 1 –
Hearing
Panel
Procedure

COMPLAINTS AGAINST MEMBERS **HEARINGS PROCEDURE**

This is a guidance note setting out how the Conduct Committee will hear complaints that the Code of Conduct has been breached. The purpose of a hearing will be to determine if the Committee agrees with the findings of the investigation.

1. Following receipt of the investigation report the Monitoring Officer will contact the member complained of (the “subject member”) and any relevant witnesses to arrange a date and time for the Conduct Hearing.
2. All paperwork submitted to the Monitoring Officer will be collated into a report for the Conduct Committee and issued in accordance with the statutory requirements for access to information.
3. The hearing will take place in public.
4. The hearing will be before 3 members drawn from the Conduct Committee and who have received hearings training (“the Panel”).
5. The Independent Person [IP] appointed under section 28 of the Localism Act 2011 will also be present to sit alongside the Panel. At the conclusion of each party’s case the IP will be invited to provide their view of the facts as presented and whether or not these represent a breach of the Code of Conduct. The IP’s opinion will be taken into account by the Panel, but by law the Independent Person may not vote.
6. The Monitoring Officer or Deputy Monitoring Officer will be present to advise the Panel. References to the Monitoring Officer within this document can therefore also be taken to be references to the Deputy Monitoring Officer as appropriate.
7. The Investigator will attend to present the investigation report and may invite the complainant to appear as a witness or call other witnesses.
8. The subject member will be invited to attend and may present their own case or they may be represented. Details of any representative attending should be notified to the Monitoring Officer within 2 days of the hearing.
9. The subject member may bring witnesses (of a number the Panel considers is reasonable). “Character witnesses” who cannot provide evidence on the matter complained about will not be permitted. Details of witnesses should be provided to the Monitoring Officer within 5 days of the hearing.
10. The cost of any attendance/representation must be borne by the party concerned.
11. The Monitoring Officer can speak at any time to advise the Panel on technical matters or ask questions of any party.
12. Although no formal time limits will be imposed on the presentations the Chairman will have the right to curtail excessive presentations.

HEARING PROCEDURE

PRELIMINARY MATTERS

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| 1 | The Chairman of the Panel will introduce the members of the Panel, the Independent Person, officers, the subject member, the Investigator and the complainant if present. |
| 2. | <p>The Chairman will explain the reason for the meeting and outline the procedure to be followed.</p> <p>The Chairman may choose to vary this procedure if they are of the opinion that such a variation is necessary in the interests of fairness.</p> |
| 3. | The Chairman will 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. |
| 4. | If any procedural issues are raised, the Panel will hear representations and determine them before beginning the hearing. |
| 5. | If the subject member is not present at the start of the hearing, the Panel will consider any reasons given by them for their non-attendance. If the Panel 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. |
| 6. | <p>If the Committee is not satisfied that there is good reason for the subject member's non-attendance, or the subject member has indicated that they do not intend to be present the Conduct Committee shall consider if it is able to continue to hear the matter in their absence. The committee shall have regard to the following factors:</p> <ul style="list-style-type: none">● Any reasons provided by the subject member;● Any representative or written representations present from the subject member;● The view of the subject member as to whether the hearing should proceed;● Any comments from the Monitoring Officer. |

HEARING

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| 7. | <p>The Investigator will be invited to summarise his/her report and findings. The Investigator may call any witnesses including the complainant.</p> <p>The subject member and/or their representative may ask any relevant questions of the Investigator and their witnesses.</p> |
| 8. | <p>The subject member will then have an opportunity to present their case including calling any witnesses.</p> <p>The Investigator may ask relevant questions of the subject member and their witnesses.</p> |

9.	The Committee has the discretion to question any of the parties as they see fit and at the discretion of the Chair the Independent Person may also question any of the parties.
10.	The Monitoring Officer may ask questions of any party at any time and may speak at any time to advise the Panel on legal or technical matters.
11.	The subject member and the Investigator will be given the opportunity to present a summary of their position to the Committee if they wish to do so.
12.	The Independent Person will be invited to provide their view of the facts as presented and whether or not these represent a breach of the Code of Conduct.
13.	The Panel and the Independent Person will retire with the Monitoring Officer to consider the matter in private. The Monitoring Officer will not take part in the decision making but may be called to give legal advice or clarify any of the evidence as required.
THE DECISION	
14.	The Chairman will confirm the Panel's decision as to whether or not the subject member has failed to comply with the Code of Conduct and set out the facts upon which the conclusions have been reached.
15.	If the Panel decides that the subject member has not failed to follow the Code of Conduct, the hearing will be concluded.
16.	If the Panel decides that the subject member has failed to comply with the Code of Conduct, it will consider any verbal representations from the Investigator, the Monitoring Officer, and the subject member as to: (a) whether or not the Panel should impose a sanction and/or recommend to Council that a sanction be imposed; and (b) what form of sanction(s) is/are appropriate.
17.	The Panel and Independent Person may retire with the Monitoring Officer to consider these representations in private. The Monitoring Officer will not take part in the decision making but may be called upon to give legal advice or clarify the options as required.
18.	The Panel will announce its decision in public at the conclusion of the hearing and will issue a full written decision including reasons to the subject member and the complainant within 7 days.

SANCTIONS

Under the Protocol for dealing with complaints, the Council has decided that the Conduct Committee may issue the following sanctions:-

- Formal letter of reprimand;
- Motion of censure at the Conduct Committee;
- Recommendation to the Full Council (or the Town or Parish Council) for a motion of Censure;
- Formal request to the Member's Group Leader for their removal from Committee(s);
- Offer additional training for the Member;
- Withdraw facilities (or recommend to the Town or Parish Council) that facilities are withdrawn such as computers, email or internet access be suspended for a period of time;
- Exclude (or recommend to the Town or Parish Council) the Member from the Council's offices or other premises or restrict access to certain officers except for access as necessary for the attendance at meetings of the Council, Committees or Sub-Committees;
- Publication of a formal notice of breach in a newspaper circulating in the area.
- Publish its findings in respect of the member's conduct.