

**Standards Committee “Code of Conduct” Hearing Procedure**

1. Introductions-

The Chairman will introduce all the Members of the Committee and officers present and invite the Member that is the subject of the allegation, or their representative, to introduce themselves.

2. Setting the scene and outstanding procedural issues to be resolved-

- i) The Legal Advisor will explain how the Committee will run the hearing as set out on this procedure note.
- ii) Reference will be made to the pre-hearing process summary form and decisions already taken as part of that process, and in particular-
  - a. The agreed hearing timetable.
  - b. Identified disagreements over findings of fact- **Form A and any response from the Investigator.**
  - c. Whether the subject Member will be giving evidence or calling witnesses- **Form B**, or will be calling any other witnesses in support- **Form E.**
  - d. Whether the Investigator wishes to call any witnesses.
  - e. Whether the subject Member wishes to make any other representations- **Form C.**
  - f. Whether a request was made and agreed to hold any part of the hearing in private or withhold any documents- **Form D.**
- iii) The Committee will determine any outstanding issues, arising from the pre-hearing process. **These will have been identified in advance by the Legal advisor and notified to the Committee with the agenda papers.**

3. Dealing with any significant disagreements as to the facts-

The Committee will either specify that there are none, or deal with any raised in accordance with the following procedure-

- i) The Investigator will be invited to make representations to support the findings of fact in the report.
- ii) The Investigator will then call any supporting witnesses in turn, and may question them to ensure that their evidence on the facts, is made clear to the Committee.
- iii) The subject Member or their representative will be entitled to challenge the evidence given by any witness after each witness has completed their evidence.

- iv) Any Member of the Committee may then ask questions of the witness.
- v) The subject Member, or their representative, will then be invited to make representations and give evidence to support their version of the facts.
- vi) The Investigator will be entitled to challenge that evidence after the subject Member has completed their evidence.
- vii) Any Member of the Committee may then ask questions of the subject Member.
- viii) The subject Member, or their representative, will then call any supporting witnesses in turn, and may question them to ensure that their evidence on the facts, is made clear to the Committee.
- ix) The Investigator will be entitled to challenge that evidence, after the each witness has completed their evidence.
- x) Any Member of the Committee may then ask questions of the witness.

4. Procedure to be followed where there is a disagreement over the facts that has not been identified by the subject Member in advance of the hearing-

Should a disagreement over the facts only come to light during the hearing the following procedure will be used-

- i) The Chairman will give the subject Member, or their representative, an opportunity to specify the reasons for not mentioning the disagreement during the pre-hearing procedure.
- ii) The Investigator will be given an opportunity to respond.
- iii) The Chairman will then ask all parties (including the Committee Clerk) and any public to leave. The Legal advisor will remain to assist the Committee which will then determine the following-
  - a. Whether to continue with the hearing, relying on the information in the Investigator's report;
  - b. Whether to allow the subject Member or their representative to make representations about the issue, and invite the Investigator to respond and call any witnesses as necessary; or
  - c. To postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigator to be present, if they are absent.
- iv) If the Investigator is not present, the Committee must decide whether it is in the public interest to continue with the hearing, or to adjourn

the hearing to another date, taking into account the issues referred to above.

- v) All parties will be invited to return and the Chairman will announce the Committee's decision on the procedural issues and on its findings of fact, if appropriate.

5. Procedure for determining whether the subject Member failed to follow the Code-

- i) The subject Member, or their representative, will be invited to make representations as to why the Committee should not decide the Member has failed to follow the Code.
- ii) Any Committee Member may question the subject Member or their representative on any representations made.
- iii) The Investigator will then be asked to make representations as to why the Committee should find their has been a breach.
- iv) Any Committee Member may question the Investigator about their representations.
- v) The subject Member or their representative will be invited to make any final points.
- vi) The Chairman will then ask all parties (including the Committee Clerk) and any public to leave. The Legal advisor will remain to assist the Committee, which will then to consider the representations made.
- vii) All parties will be invited to return and the Chairman will announce the Committee's decision as to whether or not the subject Member has failed to follow the Code.

6. Procedure where there is a finding that the Code has been breached-

- i) The Investigator, and then the subject Member of their representative, will be invited to make representations as to-
  - a. Whether or not the Committee should set a penalty; and
  - b. What form the penalty should take.
- ii) Any Committee Member may question the Investigator and subject Member, and take advice from the Legal Advisor, to ensure they have all the information they need to make an informed decision.
- iii) The Chairman will then ask all parties (including the Committee Clerk) and any public to leave. The Legal advisor will remain to assist the

Committee, which will then consider what if any penalty should be imposed on the subject Member.

- iv) All parties will be invited to return and the Chairman will announce the Committee's decision and confirm that a full written decision will be sent to all parties, as soon as possible and in any event within the following 10 working days.

7. Procedure regarding recommendations to the Council-

In all cases the Chairman will finally invite the Investigator to make representations as to whether any further action is required with a view to promoting high standards of conduct among members.

**Penalty Tariff check list**

Code failure	Code para.	Assessment of Breach				
		Low 1	2	3	4	High 5
Failed to promote with equalities or acted in a discriminatory manner	2(a)					
Failed to treat another with respect	2(b)					
Compromised the impartiality of those working for the Council	2(c)					
Disclosed confidential information	3(a)					
Prevented another from gaining access to information	3(b)					
Brought the authority into disrepute	4					
Brought their office into disrepute	4					
Used their position to gain a personal advantage or disadvantage	5(a)					
Used their position to gain an advantage or disadvantage for another	5(a)					
Failed to comply with the Council's requirements as to the use of resources	5(b)(i)					
Used the Council's resources for unacceptable political purposes	5(b)(ii)					
Failed to have regard to the advice of the Chief Finance Officer	6(a)(i)					
Failed to have regard to the advice of the Monitoring Officer	6(a)(ii)					
Failed to give reasons for an Executive decision	6(b)					

Failed to report another Member they suspected to be in breach of the Code	7					
Failed to declare a personal interest	8(1)					
Failed to declare a personal and prejudicial interest but did not participate in the decision process	9(1) and 12(1)					
Declared a personal and prejudicial interest but failed to withdraw from the meeting	9(1) and 12(1)(a)					
Declared a personal and prejudicial interest but continued to exercise Executive functions	9(1) and 12(1)(b)					
Declared a personal and prejudicial interest but sought to improperly to influence the decision	9(1) and 12(1)(c)					
Declared a personal and prejudicial interest of a financial nature but continued to participate in an O&S or area Committee	9(1) and 12(2)					
Continued to participate in a relevant committee when they had a personal and prejudicial interest due to having been involved in the decision under review	11					
Failed to register a relevant interest	14 or 15					
Failed to notify a change in a registerable interest	16					
Failed to declare receipt of a gift or hospitality	17					

**Tariff calculation**

Total possible Tariff score	
Total Tariff scored	
Reduction for apology (scale of 1-5)	
Reduction for other mitigating factors (scale of 1-5) Specify reasons-	
Overall Tariff score % - ie: Total tariff scored as a percentage of the total possible tariff score	

**Penalty/tariff comparison table**

Penalty	Overall Tariff Score %
<p><b>Censure</b></p> <p>Note: this is the only penalty available for an ex Councillor, but may be used for others)</p>	1 - 20
<p><b>Restrict Member's access to resources for up to 3 months</b></p> <p>Specify the resources to which access is restricted and the period of the restriction-</p>	20 - 60
<p><b>Suspend/partly suspend the Member for up to 3 months</b></p> <p>Specify whether fully or partly suspended and the period of the suspension-</p>	60+
<p><b>Suspend/partly suspend the Member for up to 3 months on condition that the suspension will cease if a written apology is made</b></p> <p>Specify whether fully or partly suspended and the period of the suspension-</p>	60+
Other penalties or requirements to be specified eg training	