

**HEARING PROCEDURE (approved March 2014)**

**Proposed amendments in red**

**STANDARDS COMMITTEE &  
TOWN & PARISH COUNCILS' STANDARDS SUB-COMMITTEE**

This procedure supplements Section 7.1.2 of the Council's Complaints Procedure and a copy will be provided to the both the Complainant and the Member the subject of the Complaint ("Councillor").

All Hearings will be held in Public unless the relevant paragraph of Schedule 12A of the Local Government Act 1972 applies, however the public interest test must be considered and therefore it would only be in exceptional circumstances that the hearing will be held in Private. The Council's Monitoring Officer will provide the relevant advice.

Where District Councillors were required to make a decision in respect of a hearing, they have due regard to, and take into account any views expressed by Town and Parish Councillors in reaching their decision.

<b><u>Item No.</u></b>	<b><u>Procedure</u></b>
<b>1</b>	<b><u>Quorum</u></b>  1.1. Three Members must be present throughout the hearing to form a quorum.  1.2. Where the complaint refers to a Town or Parish Councillor a non-voting Town and Parish representative of the Town and Parish Councils' Standards Sub-Committee must be present.  1.3. The Committee or Sub-Committee shall nominate the Chairman for the meeting in accordance with the terms of reference of the relevant Committee.
<b>2</b>	<b><u>Opening</u></b>  2.1 The Chairman explains that:  (i) The hearing has been convened in accordance with the Council's Complaints Procedure and that an investigation has been conducted, the outcome of which is that it is considered there is evidence of a failure to comply with the Members' Code of Conduct.  (ii) The Parties have been aware of the content of the Investigator's Report and this has been circulated to all Members of the

	<p>Committee.</p> <p>(iii) The Monitoring Officer has referred the matter for a hearing either because upon conclusion of the investigation, informal resolution has not been successful or it is not appropriate to do so, for the reasons given within the Committee Report.</p> <p>(iv) Purpose of the Hearing is to consider the Investigators Report, the evidence in support and representations from the Parties. <b>The process of the hearing is inquisitorial, and not adversarial. Any witnesses in attendance should not be made to feel uncomfortable or that their integrity is being questioned. The purpose of the hearing is to establish the facts. Cross-examination of the Investigating Officer, the Councillor and witnesses is not permitted, all questions should be made through the Chair.</b></p> <p>(v) <b>Evidence before the Committee may be given orally or by written statement. At any stage during the proceedings the Committee can request the attendance, in person or joining remotely, of any person making a written statement or any other person they consider will be able to assist them, but the Committee has no power to require the attendance of any person.</b></p> <p>(vi) <b>The Standards Committee will make its decision on the balance of probability, based on the evidence before it during the hearing.</b></p> <p>(vii) If the Committee or Sub-Committee depart from the recommendation from either the Investigating Officer and/or Monitoring Officer detailed reasons are required and published in the Decision Notice.</p> <p>2.2 The Chairman asks all present to introduce themselves.</p>
<p><b>3</b></p>	<p style="text-align: center;"><b><u>The Complaint</u></b></p> <p>3.1 The Investigating Officer or Monitoring Officer shall be invited to present their report including:</p> <p>(i) any documentary evidence or other material;  (ii) call such witnesses as considered necessary; and  (iii) make representations to substantiate the conclusion that the Councillor has failed to comply with the Code of Conduct</p> <p>This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed.</p> <p>It is only under 3.1 (ii) that the Complainant will take part in the hearing.</p> <p>3.2 The Councillor (or their representative) may question:</p>

	<p>(i) the Investigating Officer upon the content of their report and/or;  (ii) any witnesses called by the Investigating Officer.</p> <p>This is the Councillor's opportunity to ask questions rising from the Investigators report and not to make a statement.</p> <p>3.3 Members of the Committee or Sub-Committee may question:</p> <p>(i) the Investigating Officer upon the content of their report and/or  (ii) any witnesses called by the Investigating Officer.</p> <p>This is the Committee or Sub-Committees' opportunity to ask questions rising from the Investigators report and not to make statements.</p>
<p><b>4</b></p>	<p style="text-align: center;"><b><u>The Councillor's case</u></b></p> <p>4.1 The Councillor (or their representative) may:</p> <p>(i) present their case;  (ii) call any witnesses as required by the Councillor or their representative and  (iii) make representations as why they consider that they did not fail to comply with the Code of Conduct.</p> <p>4.2 The Investigating Officer may question the Councillor and/or any witnesses.</p> <p>4.3 Members of the Committee or Sub-Committee may question the Member and/or any witnesses.</p> <p>In all instances, only questions will be permitted relating to the allegation and the Councillor's case and no statements should be made.</p>
<p><b>5</b></p>	<p style="text-align: center;"><b><u>Summing Up</u></b></p> <p>5.1 The Investigating Officer may sum up the Complaint.</p> <p>5.2 The Councillor (or their representative) may sum up their case.</p>
<p><b>6</b></p>	<p style="text-align: center;"><b><u>Decision</u></b></p> <p>6.1 Members of the Committee or Sub-Committee will deliberate in private to consider the complaint (if required, in consultation (*) with the Independent Person) prior to reaching a decision.</p> <p>(*) Note any consultation with the Independent Person must be undertaken in</p>

the open session so all parties can hear their views.

6.2 Upon the Committee or Sub-Committee's return the Chairman will announce the Committee or Sub-Committee's decision in the following terms:-

- (i) The Councillor has failed to comply with the Code of Conduct; or
- (ii) The Councillor has not failed to comply with the Code of Conduct

The Committee or Sub-Committee will give detailed reasons for their decision, which will be included within the published Decision Notice.

6.3 If the Committee or Sub-Committee decides that the Councillor has failed to comply with the Code of Conduct they will then consider any representations from the Investigator and/or the Councillor as to:

- (i) The appropriate sanction, as set out in Section 8 of the Complaints Procedure.
- (ii) Based on relevance to the breach, being proportionate and necessary to promote and maintain high standards of conduct.

6.4 The Committee or Sub-Committee is required by law to do so in consultation (\*) with the Independent Person. (\*) Note any consultation with the Independent Person must be undertaken in the open session so all parties can hear their views.

6.5 The Committee or Sub-Committee will then deliberate in private to consider what action, if any, should be taken.

6.6 On the Committee or Sub-Committee's return the Chairman will announce the Committee or Sub-Committee's decision as to what actions they resolve to take (in relation to a Town or Parish Councillor a recommendation to their Council).

6.7 The Committee or Sub-Committee will consider whether it should make any specific recommendations to the Council or in relation to a Town or Parish Councillor to their Council with a view to promoting and maintaining high standards of conduct among Members.

6.8 The Chairman will confirm that a full written Decision Notice shall be issued within 7 working days following the hearing and that the Committee or Sub-Committee's findings will be published on the Council's website and reported to the next full Council.