

Q1 Civic Affairs Committee – Procedure for Local Hearings

General points:

- The Monitoring Officer will refer a complaint to a panel of the Civic Affairs Committee for a hearing where an investigator appointed by the Monitoring Officer has found that a councillor has breached the code of conduct and where informal resolution of the complaint has not been possible or is not appropriate. The purpose of a hearing will be to determine if the panel agrees with the findings of the investigation report that a councillor has breached the code of conduct and if so, what action should now be taken.
- The hearings will, where possible, be held within 3 months of the issue of an investigation report in which the investigator has found that a councillor has breached the code of conduct
- The hearing will be before a Panel of 3 members drawn from the Civic Affairs Committee. One of the members present will be elected Chairman.
- The Independent Person [IP] appointed under section 28 of the Localism Act 2011 will also be present to sit alongside the panel. His/her views will be requested and taken into account by the Panel, but by law he/she cannot vote.
- The Monitoring Officer or Deputy Monitoring Officer will be present as advisor to the Panel.
- The investigator will attend to present his/her investigation report and may invite the complainant to appear as a witness or call other witnesses.
- The councillor will be invited to attend and may present his/her own case or they may be represented.
- The councillor may bring witnesses (of a number the Panel considers is reasonable), in which case written statements from the witnesses must be lodged with the Monitoring Officer at least 10 working days before the hearing. “Character witnesses” who cannot provide evidence on the matter complained about will not be permitted. The cost of any attendance/representation must be borne by the party concerned.
- All written evidence must be provided to the Monitoring Officer at least 5 working days before the hearing so it can be circulated to the Panel, the IP, the Investigating Officer, the councillor and the complainant.
- Written statements will not be read out at the hearing as it will be assumed all those present are already familiar with their contents.
- The Monitoring Officer can speak at any time to advise the Panel on technical matters or ask questions of any party.

Procedure

Formalities

1. The Chairman of the Panel will introduce the members of the Panel, the Independent Person, officers, the councillor, the investigating officer and the complainant if present.
2. 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.
3. The Chairman will also explain that the hearing will normally be held in public unless the Panel exercises its discretion to exclude the public from all or part of the hearing in accordance with the Local Government Act 1972.
4. 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.
5. If any procedural issues are raised, the Panel will hear representations on them before determining them.
6. If the Councillor is not present at the start of the hearing, the Panel will consider any reasons given by them for his/her nonattendance. If the Panel is satisfied that there is good reason for his/her non-attendance, it may adjourn to another date, or proceed on the request of the Councillor.
7. If the Panel is not satisfied that there is good reason for the Councillor's non-attendance, or if the Councillor failed to give any reason for his/her non-attendance, the Panel can decide:
 - to consider the matter and make a determination in the absence of the Councillor, or
 - to adjourn the Hearing to another date.

The Hearing

8. The Investigator will be invited to summarise his/her report and findings and make any representations about the written pre-hearing submission of the Councillor. The Investigator may call any witnesses, including the complainant.
9. The Panel will identify the areas of disagreement between the Investigator and the Councillor on the Investigation report's facts or conclusions.
10. The Councillor 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.
11. The Panel and/or the Independent Person has the discretion to question any of the parties at any point, as it sees fit.
12. The councillor and the investigator/complainant will be given the opportunity to make closing statements if they wish to do so.
13. The Panel and the Independent Person will retire to consider what they have heard in private accompanied only by the clerk and legal advisor, who will advise them when required.

14. The Chairman will then announce to all present at the Hearing the Panel's decision as to whether or not the Councillor has failed to comply with the Code of Conduct, whilst setting out the facts upon which the conclusions have been reached.
15. If the Panel decides that the Councillor has not failed to follow the Code of Conduct, the Panel will then consider whether it should make any recommendations to the Council.

Sanctions

16. If the Panel decides that the Councillor 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 Councillor 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.
 - c. any mitigation the Councillor wishes the Sub Committee to take into account
17. The Panel and the Independent Person will retire to consider these representations in private accompanied only by the clerk [and legal advisor if required] and decide whether or not to impose/recommend the imposition of sanctions on the Councillor and, if so, what type of sanction(s).
18. The Panel 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.

Issue of decision

19. The Panel will announce its decision in public at the conclusion of the hearing and will issue a full written decision including reasons within 10 working days of the hearing.
20. A written report of the hearing and decision, with reasons, will be prepared, usually within 10 working days. A copy will be sent to all those present at the hearing and to the Clerk of the parish council if the complaint was about a parish councillor. The written report will be available for public inspection.

Decisions open to the Panel:

These are:

1. That the councillor did not fail to comply with the Code of Conduct;
2. That the councillor did fail to comply with the Code of Conduct, and that
 - I. No action need be taken; or
 - II. One or more of the sanctions set out in Q2 below should be applied.

The Panel may also make any recommendations it considers appropriate to the Council or Parish Council regarding procedural amendments or other matters that might assist members generally to follow the Code of Conduct and with the aim of promoting high standards within the authority.