



NOTICE OF MEETING

Special Standards Committee

THURSDAY, 7TH OCTOBER, 2010 at 19:00 HRS – CIVIC CENTRE, HIGH ROAD, WOOD GREEN, LONDON N22

COUNCIL MEMBERS: Christophides, Demirci, Reece, Stennett, Watson, Williams and Winskill

INDEPENDENT MEMBERS: Mr J. Darbyshire, Ms R. Hatch (Vice-Chair), Ms A. Loyd (Chair), Mr P. Skinner, Ms C. Sykes and 1 vacancy

AGENDA

- 1. APOLOGIES FOR ABSENCE**
- 2. URGENT BUSINESS**

The Chair will consider the admission of any late reports in relation to the items shown on the agenda.

(Please note that under the Council's Constitution – Part 4 Section B paragraph 17 – it being a special meeting no other business shall be considered).

3. DECLARATIONS OF INTEREST

A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

A member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgment of the public interest **and** if this interest affects their financial position or the financial position of a person or body as described in paragraph 8 of the Code of Conduct **and/or** if it relates to the determining of any approval, consent, licence, permission or registration in relation to them or any person or body described in paragraph 8 of the Code of Conduct.

4. FUTURE OF STANDARDS REGIME (PAGES 1 - 2)

Update from the Monitoring Officer.

5. STANDARDS TRAINING 2010/11 - UPDATE

Verbal report of the Monitoring Officer

6. UPDATE ON COMPLAINTS RECEIVED

Verbal report of the Monitoring Officer

7. ADOPTION OF PROCEDURES FOR LOCAL DETERMINATION HEARINGS (PAGES 3 - 22)

Report of the Monitoring Officer to propose the formal adoption of pre-hearing procedure forms and Procedure Rules for conducting local determination hearings into allegations of breach of the Members' Code of Conduct by the Standards Committee or a Hearing Panel.

8. EXCLUSION OF THE PUBLIC AND PRESS

The following item is likely to be subject of a motion to exclude the press and public from the meeting as it contains exempt information as defined in Section 100a of the Local Government Act 1972; namely information relating to any individual, and information which is likely to reveal the identity of an individual; and also in accordance with the Standards Committee (England) Regulations 2008 (regulation 5), and Section 53 of the Local Government Act 2000.

9. CONSIDERATION OF THE OUTCOME OF AN INVESTIGATION RESULTING FROM THE DECISION OF THE STANDARDS ASSESSMENT SUB-COMMITTEE - STANDARDS COMPLAINT SC002/0910 (PAGES 23 - 378)

Report of the Head of Legal Services and Monitoring Officer - To advise the Committee of the outcome of an investigation in respect of a Standards Assessment Sub-Committee complaint referral :

Standards Complaint SC002/0910

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Deputy Head of Local Democracy & Member
Services
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London N22 8HQ

Clifford Hart
Committee Manager
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Wednesday, 22 September 2010

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Ministers axe Standards Board

The Government is axing the Standards Board and has indicated corrupt councillors will now find themselves in court.

Communities minister [Andrew Stunell](#) made the announcement at an NLGN event ahead of the Lib Dem annual party conference, saying the regime had 'become a vehicle for malicious and frivolous complaints'.

Councillors will now have to register personal interests in a public register and further powers will be bestowed upon the Local Government Ombudsman, which will ensure local authorities are legally bound to implement its findings.

Mr Stunell said: 'We will legislate to ensure that if a councillor is corrupt and abuses their office for personal gain they will be dealt with in the criminal courts. If a councillor behaves ineffectively or irresponsibly then it's a matter for the electorate not an unelected quango.'

'This Government is freeing councillors from central prescription and top down bureaucracy so they can get on with their job. In the future councillors must expect to be judged at the ballot box by an electorate with real access to their accounts and personal interests in a new transparent era.'

He added the Government would allow councils to decide whether they wish to have a mayor or leader, and cabinet or committee systems.

'For the last decade councils have been forced to implement a one-size fits all model of government. This government will let councils and communities decide how to organise themselves. We don't presume to know more than local people about how their area should be run,' he said.

"This Government is freeing councillors from central prescription and top down bureaucracy so they can get on with their job. In the future councillors must expect to be judged at the ballot box by an electorate with real access to their accounts and personal interests in a new transparent era."

Communities minister
Andrew Stunell

Councillor misconduct to be a criminal offence

By Jaimie Kaffash

20 September 2010

Serious misconduct by councillors will become a criminal offence, communities minister Andrew Stunell announced today.

Stunell said that [Standards for England](#), the councillor watchdog, had 'become a vehicle for malicious and frivolous complaints'. The government announced in May that the quango would be axed. It dealt with 6,000 complaints since its May 2008 relaunch, but half of these were judged not worthy of further action.

The government will legislate to make serious misconduct by councillors an offence that will be tried in court. It has also promised to give the Local Government Ombudsman 'real teeth'. Local authorities will be legally obliged to implement the findings of the ombudsman, which investigates public complaints over the way they have been treated by their council.

Stunell said: 'The Standards Board regime ended up fuelling petty complaints and malicious vendettas. Nearly every council had investigations hanging over them – most of which would be dismissed but not before reputations were damaged and taxpayer money was wasted.

'Frivolous allegations undermined local democracy and discouraged people from running for public office.'

Local Government Secretary Eric Pickles added: 'Failure to register or declare an interest, or deliberately seeking to mislead the public about an interest, will become a criminal offence while a newly empowered Local Government Ombudsman will investigate incompetence on behalf local people.'

Public Finance recently revealed that [thecost of abolishing Standards for England will be more than it saves](#) because of the pensions liabilities it holds.



Haringey Council

Agenda Item 7

Agenda item:

Special Standards Committee on 7 October 2010

Report Title: Adoption of Procedures for Local Determination Hearings

Report of: The Monitoring Officer

Wards(s) affected: All

Report for: Non Key Decision

1. Purpose

1.1 To propose the formal adoption of pre-hearing procedure forms and Procedure Rules for conducting local determination hearings into allegations of breach of the Members' Code of Conduct by the Standards Committee or a Hearing Panel.

2. Recommendations

2.1 That Members of the Committee resolve to adopt for future use by the Committee and its Hearing Panels:

- (i) the pre-hearing procedure Forms A to E attached as the Appendices 1 to 5 to this report.
- (ii) the Procedure Rules for conducting Local Determination Hearings, set out in Appendix 6 to this report,

Report Authorised by: John Suddaby, Monitoring Officer

Contact Officer: Terence Mitchison, Principal Project Lawyer, Corporate
8489 5936 Terence.Mitchison@haringey.gov.uk

3. Local Government (Access to Information) Act 1985

3.1 Standards for England Guidance and Toolkit for conducting local determination hearings.

4. Financial Implications

4.1 There are no specific financial implications.

5. Legal Implications

5.1 The legal implications are stated in the body of this report.

6. Equalities and Community Cohesion Implications

6.1 There are no specific equalities and community cohesion implications.

7. Background

7.1 Standards for England have issued detailed guidance on the conduct of local determination hearings which includes a “model hearing procedure” for local determination hearings by Standards Committees and their Sub-Committees or Panels. Part of this guidance is a “toolkit” setting out model Forms A to E which are intended to assist the pre-hearing process by clarifying the matters in dispute and the evidence that will be relevant to the hearing.

7.2 Forms A to E and Procedure Rules for the conduct of hearings, based on the Standards for England models, were used late last year (October to December 2009) in relation to the three local determination hearings that took place in that period. There has been no formal resolution by the Standards Committee to adopt Forms A to E or the Procedure Rules and, consequently, in order to avoid any possible future dispute, this report is being made to the Committee now so as to ensure that there is a properly minuted resolution to adopt them for future use.

8. The Pre-Hearing Process

8.1 The pre-hearing process starts after the meeting of the Standards Committee to consider the investigation report and findings from the Monitoring Officer or his/her nominee (referred to as the “investigator”). The Committee may refer a finding of breach of the Code of Conduct to a local determination hearing or the Committee may do so after “overturning” a finding of no breach. Only in the most serious cases would the breach(es) be referred to the national Adjudication Panel for hearing rather than to the local Hearing Panel.

8.2 The “parties” to the hearing are the subject Member, or Members, who are alleged to have breached the Code of Conduct on the one hand and the “investigator” who prepared the investigation report, and/or the investigator’s representative, on the other hand. If the Monitoring Officer, personally, is to advise the Hearing Panel on law and procedure during the hearing, then the Monitoring Officer will appoint another Council officer, or a suitable person outside the Council, to undertake the investigation notwithstanding that the investigation is officially conducted on behalf of the Monitoring Officer. In any event, the “investigator” will be a different officer/person from the legal advisor to the Members of the Hearing Panel.

- 8.3 The Monitoring Officer will also ensure that the legal advisor to the Hearing Panel, or an officer assisting that legal advisor, arranges the distribution, receipt and copying of the Forms used as part of the pre-hearing process. This is done in a “neutral” capacity independently on the “investigator”.
- 8.4 The subject Member (i.e. the Councillor accused of breaching the Code of Conduct in the original complaint) will have received a copy of the investigation report and its attachments. After the meeting of the Standards Committee to consider the investigation report, the Monitoring Officer, or his/her representative, acting in a neutral capacity rather than as “investigator”, will write to the subject Member enclosing Forms A to E, explaining their purpose and asking for the return of the completed Forms within a reasonable deadline. The letter may also propose a hearing date.
- 8.5 Form A (Appendix 1) invites the subject Member to state his/her disagreement with any findings of fact in the investigation report. It asks for the subject Member’s reasons and suggestions for an alternative version of events. Form B (Appendix 2) invites the subject Member to identify any evidence not already included in the investigation report which the subject Member feels is relevant to the complaint/hearing.
- 8.6 Form C (Appendix 3) asks for the subject Member’s representations if he/she is found to have breached the Code towards the end of the forthcoming hearing. This is a kind of “plea in mitigation” but only to be considered by the Hearing Panel if a breach is found and before a sanction is imposed.
- 8.7 Forms D and E (Appendices 4 and 5) cover arrangements for the hearing itself including the identity of the subject Member’s representative, any witnesses to be called, an outline of the witness evidence and any arguments the subject Member may put forward about hearing all or part of the hearing/evidence privately.
- 8.8 Once completed by the subject Member, the responses in Forms A to E will be copied to the investigator (i.e. the author of the investigation report or his/her representative) who will be invited to comment within a reasonable deadline. If the investigator wishes to call any witnesses or additional evidence or to have any evidence heard in private this must be communicated to the subject Member and to the Monitoring Officer/legal advisor acting neutrally.
- 8.9 As a result of this pre-hearing process, the issues still in dispute should have been clarified and it should be more apparent (subject to the final decision of the Hearing Panel) which witnesses are likely to be called by the parties and what evidence is relevant.
- 8.10 The Monitoring Officer/legal advisor acting neutrally will prepare a “Pre-Hearing Process Summary” for the benefit of the Hearing Panel and the parties (i.e. the subject Member and the investigator). This Summary will set out the key points in

the complaint, the paragraphs of the Code that are relevant, the issues of fact that are agreed and the issues still in dispute together with the witnesses that each party seeks to call. Other facts such as the date, time and venue for the hearing and the identity of the Hearing Panel Members will be included.

9. The Procedure Rules for Local Determination Hearings

- 9.1 The proposed Procedure Rules for Local Determination Hearings are attached as Appendix 6 to this report. These Rules deal with the procedure on the day of the hearing on the assumption that the pre-hearing process outlined above has been followed and has clarified the issues still in dispute.
- 9.2 The Rules are similar to those that will apply in other types of case where “quasi-judicial” procedures are required, for example, hearings before Licensing Sub-Committees or staff disciplinary appeals. The common features are: (i) equal rights given to opposing parties, (ii) provision for each party to be represented, (iii) the right of each party to make representations at each stage in the proceedings, (iv) provision for each party to call witnesses or to rely on documentary evidence (v) provision for witnesses to be questioned by the opposing party, (vi) provision for Members of the Hearing Panel to question the parties and their witnesses, and (vii) rules to safeguard against “surprise” evidence being called by either party, and (viii) provision for the Panel to take legal advice, either privately or in open session, from the Monitoring Officer or his nominated legal advisor (acting “neutrally” between the parties).
- 9.3 The Procedure Rules being recommended have features peculiar to Local Determination Hearings under the Code of Conduct. These peculiar features are set out in the Standards for England model. They divide the hearing into a number of stages as follows:
- (i) There is an initial stage for resolving preliminary procedural issues, for example, whether any part of the evidence should be heard in private session, whether a particular witness can be called or a late document admitted. The Panel would hear representations from the parties on such issues.
 - (ii) The next stage is for the Panel to hear evidence from the parties and their witnesses and then to make formal findings of fact.
 - (iii) Then the Panel must reach a conclusion as to whether there has been a failure, or failures, to comply with the Code of Conduct, based on their previous findings of fact. The Panel may hear representations from the parties. Sometimes stages (ii) and (iii) can be combined.
 - (iv) If the subject Member has breached the Code, the Panel will hear further representations from the parties, including the contents of Form C from the subject Member. The Panel will then decide on the sanction to be imposed on

the subject Member (if any).

- (v) Whether or not there has been a breach of the Code of Conduct, the Panel can decide to make general recommendations to the Council in the light of the case they have just heard with a view to promoting high standards of conduct among Members.

9.4 The Procedure Rules recommended and attached at Appendix 6 are closely based on the model hearing procedure issued by Standards for England in 2008. The main differences suggested by Haringey's officers are as follows:

- (i) Making express reference to the power of the Panel, through its Chair, to amend the Procedure Rules where necessary or desirable.
- (ii) Express provision for fixing the date of the hearing.
- (iii) Express provision for the procedure in the event of the non-attendance of either party at the hearing.
- (iv) Express provision for modifying the Rules in the event that there are two or more subject Members involved in the same hearing.
- (v) Express reference to the role of the Committee Clerk.

10. Appendices

Appendix 1 - Form A – Subject Member's Response to Evidence in the Investigation Report.

Appendix 2 – Form B – Subject Member's Request to Introduce Additional Evidence

Appendix 3 – Form C – Subject Member's Representations if found to have breached the Code of Conduct.

Appendix 4 – Form D – Subject Member's Views/Information about Conduct of the Hearing.

Appendix 5 – Form E – Subject Member's Request to Call Witnesses.

Appendix 6 – Proposed Procedure Rules for Local Determination Hearings.

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FORM A

FOR STANDARDS COMMITTEE/SUB COMMITTEE HEARINGS

Subject member's response to the evidence set out in the investigation report

Please enter the number of any paragraph in the investigation report where you disagree with the findings of fact, and give your reasons and your suggested alternative. Please add extra "boxes" or ask for a longer form if needed.

Paragraph number from the investigation report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read

APPENDIX 1



Haringey Council

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FORM B

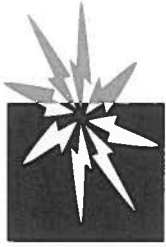
FOR STANDARDS COMMITTEE/SUB COMMITTEE HEARINGS

Other evidence relevant to the complaint

Please set out below, using the numbered paragraphs, any additional evidence you feel is relevant to the complaint made about you. This would be evidence in documents or from witnesses in addition to that contained in the Investigation Report and its Appendices. Please add extra "boxes" or ask for a longer form if needed.

Paragraph number	Details of the evidence
1	
2	
3	

APPENDIX 2



FORM C

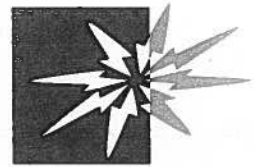
FOR STANDARDS COMMITTEE/SUB COMMITTEE HEARINGS

Representations to be taken into account if a member is found to have failed to follow the Code of Conduct

Please set out below, using the numbered paragraphs, any factors that the standards committee should take into account if it finds that you have failed to follow the Code of Conduct. Please note that no such finding has been made yet. Returning this form does not prejudice any argument you may make that you have not breached the code. Please add extra "boxes" or ask for a longer form if needed.

Paragraph number	Factors for the Standards Committee/Sub-Committee to take into account when deciding whether to impose any censure, restriction of resources or allowances, suspension or partial suspension.
1	
2	
3	

APPENDIX 3



APPENDIX 4

FORM D

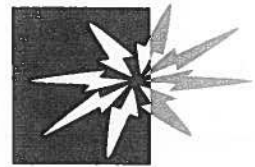
FOR STANDARDS COMMITTEE/SUB COMMITTEE HEARINGS

Please double click in the relevant box to enter 'x'.

<p>1</p>	<p>Are you planning to attend the standards committee hearing on the proposed date in the accompanying letter?</p> <p>If 'No' please explain why?</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Reason:</p>
<p>2</p>	<p>Are you going to present your own case?</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	
<p>3</p>	<p>If you are not presenting your own case, will a representative present it for you?</p> <p>If 'Yes' please state the name of your representative.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Name:</p>

<p>4</p>	<p>Is your representative a practising solicitor or barrister?</p> <p>If 'Yes', please give their legal qualifications. Then go to Question 6.</p> <p>If 'No' please go to Question 5.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	
<p>5</p>	<p>Does your representative have any connection with your case?</p> <p>If 'Yes', please give details.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Details:</p>
<p>6</p>	<p>Are you going to call any witnesses?</p> <p>If 'Yes', please fill in Form E.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	
<p>7</p>	<p>Do you, your representative or your witnesses have any access difficulties? For example, is wheelchair access needed?</p> <p>If 'Yes', please give details.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Details:</p>
<p>8</p>	<p>Do you, your representative or witnesses have any special needs?</p> <p>For example, is an interpreter needed?</p> <p>If 'Yes' please give details</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Details:</p>

<p>9</p>	<p>Do you want any part of the hearing to be held in private?</p> <p>If 'Yes', please explain precisely which part(s) and give reasons.</p> <p>Please note that the Committee/Sub Committee will have the final decision on what is heard in private or in public.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Reasons:</p>
<p>10</p>	<p>Do you want any part of the relevant documents to be withheld from public inspection?</p> <p>If 'yes', please state precisely which documents and give reasons.</p> <p>Please note that the Committee/Sub-Committee will have the final decision on what is heard in private or in public.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	



FORM E

APPENDIX 5

FOR STANDARDS COMMITTEE/SUB COMMITTEE HEARINGS

Details of proposed witnesses to be called. This means all the witnesses you wish to call whether or not interviewed by the Investigating Officer.

Please double click in the relevant box to enter 'x'. Please add extra "boxes" or ask for a longer form if needed.

Name of witness or witnesses	1	
	2	
	3	

Witness 1

a	Will the witness give evidence about the allegation?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Outline of evidence:
	If 'Yes', please provide an outline of the evidence the witness will give.		
b	Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Outline of evidence:
	If 'Yes', please provide an outline of the evidence the witness will give.		

Witness 2

a	<p>Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p>
b	<p>Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p>

Witness 3

a	<p>Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p>
b	<p>Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p>

Procedure Rules for Local Determination Hearings into allegations of breach of the Members' Code of Conduct to be undertaken by the Standards Committee or a Hearing Panel

Interpretation

1. "Subject Member" means the member of the Council who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the subject member's nominated representative. Where the hearing involves a complaint against more than one member then this includes all the subject members.
2. "Investigator" means the Monitoring Officer (MO) who referred the investigator's report to the Committee, and includes the MO's nominated representative or an officer acting on their behalf. In the case of matters that have been referred to the MO or the Committee by an Ethical Standards Officer (ESO), the "investigator" mean the ESO or other appointed investigating officer, and his/her nominated representative.
3. "Committee" means the Standards Committee and includes a Hearing Panel or Sub-Committee of the Standards Committee appointed to conduct a hearing. When it is necessary or desirable to amend, simplify or amplify these Procedure Rules, the Committee will take into account representations from the parties and its legal advisor but the Committee will determine all questions relating to procedure and the admission of evidence. Action taken by the Chair shall be deemed to be authorised by the Committee unless the Committee by majority vote determines otherwise at any time.
4. "Legal advisor" means the officer responsible for providing legal advice to the Committee. This may be the Monitoring Officer, another legally qualified officer of the Council, or a lawyer appointed for this purpose from outside the Council.
5. "Committee Clerk" means the officer nominated by the Head of Local Democracy and Member Services to assist the effective running of the hearing and the keeping of a record of the proceedings.

Preliminary Matters

Date for Hearing

5. The date and time for the hearing shall be determined by an officer appointed by the Head of Local Democracy and Member Services in consultation with the Committee members, the subject member and the investigator. In the event that agreement between these persons cannot be reached within a reasonable time, the officer shall determine the date and time in consultation with the Chair of the Committee.

Attendance

6. If the subject member or the investigator fails to attend the Committee at the date and time fixed for the hearing, the Committee shall decide whether to proceed in their absence or whether to adjourn to another date having regard to any representations made by, or on behalf of, the absent party and any party present and any advice from the

legal advisor. There will be a presumption that the hearing should proceed in the absence of a party who has had reasonable prior written notice of the date and time unless there are exceptional circumstances.

Representation

7. The subject member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Committee, another non-legally-qualified person.

Two or more Subject Members

8. If there are two or more subject members, then the Committee will agree such modifications to this procedure as will allow each subject member to be separately represented, if he/she so wishes, and to be given a separate opportunity to make representations and ask questions of witnesses. Any representations and evidence specific to one/some subject members, but not other subject members, shall be properly and separately considered.

Legal advice

9. The Committee may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with the subject member and the investigator if they are present.

Setting the scene

10. After all the members of the Committee and everyone involved have been formally introduced, the Chair should explain how the Committee is going to run the hearing.

Preliminary procedural issues

11. The Committee should then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

Making findings of fact

12. After dealing with any preliminary issues, the Committee should then move on to consider whether or not there are any significant disagreements about the facts contained in the investigator's report.

13. If there is no disagreement about the facts, the Committee can move on to the next stage of the hearing.

14. If there is a disagreement, the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the Committee's permission, the investigator may call any necessary supporting witnesses to give evidence. The Committee may give the subject member an opportunity to challenge any evidence put forward by any witness called by the investigator.

15. The subject member should then have the opportunity to make representations to support his/her version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence.

16. 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 witnesses called by the subject member.

17. If the subject member disagrees with most of the facts, it may make sense for the investigator to start by making representations on all the relevant facts, instead of discussing each fact individually.

18. If the subject member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, he/she must give good reasons for not mentioning it before the hearing. After considering the subject member's explanation for not raising the issue at an earlier stage, the Committee may then:

a) continue with the hearing, relying on the information in the investigator's report;

b) allow the subject 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.

19. The Committee will usually move to another room to consider the representations and evidence in private.

20. On their return, the Chair will announce the Committee's findings of fact.

Did the Subject Member fail to follow the Code?

21. The Committee then needs to consider whether or not, based on the facts it has found, the subject member has failed to follow the Code of Conduct.

22. The subject member should be invited to give relevant reasons why the Committee should not decide that he or she has failed to follow the Code.

23. The Committee should then consider any verbal or written representations from the investigator.

24. The Committee may, at any time, question anyone involved on any point they raise in their representations.

25. The subject member should be invited to make any final relevant points.

26. The Committee will then move to another room to consider the representations.

27. On their return, the Chair will announce the Committee's decision as to whether or not the subject member has failed to follow the Code of Conduct.

If the Subject Member has not failed to follow the Code of Conduct

28. If the Committee decides that the subject member has not failed to follow the Code of Conduct, the Committee can move on to consider whether it should make any recommendations to the Council.

If the Subject Member has failed to follow the Code

29. If the Committee decides that the subject member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the investigator and the subject member as to:

- a) whether or not the Committee should set a penalty; and
- b) what form any penalty should take.

30. The Committee may question the investigator and subject member, and take legal advice, to make sure they have the information they need in order to make an informed decision.

31. The Committee will then move to another room to consider whether or not to impose a penalty on the subject member and, if so, what the penalty should be.

32. On their return, the Chair will announce the Committee's decision.

Recommendations to the Council

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

The written decision

34. The Committee will announce its decision on the day of the hearing and provide a short written decision on that day. It will also need to issue a full written decision shortly after the end of the hearing. It is good practice to prepare the full written decision in draft as soon as practicable after the hearing before memories fade.

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