

STANDARDS COMMITTEE HEARING PROCEDURES

Part 1 - The Pre-Hearing Process

The pre-hearing process will only deal with procedural issues. It will normally be conducted in writing.

The pre-hearing process exists to:-

- identify whether the Member against whom the allegation has been made or the Independent Person disagrees with any findings of fact contained in the Investigating Officer's report
- decide whether or not those disagreements are significant to the Hearing
- decide whether or not to hear evidence about those disagreements during the Hearing
- decide whether or not there are any parts of the Hearing that should be held in private
- decide whether or not any parts of the Investigating Officer's report, or other documents should be withheld from the public

Stage One

An Officer from Democratic Services will be appointed to provide administrative support to the Standards Committee Hearing.

The Independent Person will have been provided with a draft of the Investigating Officer's report upon which to comment. The final version of the Investigating Officer's report will incorporate any comments made by the Independent Person, including any disagreements as to the findings of fact contained in the report.

The Officer appointed to provide administrative support will write to the Member against whom the allegation has been made to introduce him/herself, provide them with a copy of the final report, provide them with a copy of this procedure and propose a date for the Hearing. The Officer will also ask for a written response from the Member within seven days to find out whether he/she:-

- (a) disagrees with any of the findings of fact contained in the Investigating Officer's report and the reasons for such disagreements and/or provide details of any other evidence they consider relevant to the allegation
- (b) can attend the Hearing on the proposed date
- (c) wants to be represented at the Hearing by either a solicitor, barrister or some other person (the Committee will normally give permission for Members to be represented by non-lawyers but may refuse permission if that person is directly involved in the matter to be determined)
- (d) wants to give evidence either verbally or in writing
- (e) wants to call relevant witnesses to give evidence to the Committee and provide details of those witnesses
- (f) wants any part of the Hearing to be held in private

- (g) wants any part of the Investigating Officer's report or any relevant background papers to be withheld from the public and the reasons for so doing
- (h) in the event a breach of the Code of Conduct is found, the factors the Member would wish the Committee to take into account when determining whether or not to recommend a sanction to the appropriate authority

The Officer will also ask the Investigating Officer to confirm whether he/she:-

- (a) wants to call relevant witnesses to give evidence to the Standards Committee
- (b) wants any part of the Hearing to be held in private
- (c) wants any part of the report or any relevant background documents to be withheld from the public

Notes

1. Findings of fact are defined as: the facts of the case; statements about what actually happened based on the evidence obtained; statements as to whether something has really occurred. Findings of fact are not based on opinions. Once established, they are used to make a judgement as to whether – on the basis of those facts – a breach of the Code of Conduct has been demonstrated.
2. Witnesses should only be called to give evidence in person at the Hearing in respect of disputing the findings of fact. The Committee may agree to hear from witnesses in respect of other matters in exceptional circumstances, to be determined by the Committee at the Hearing on a case by case basis.
3. The Committee may restrict the number of witnesses called if it believes the number is unreasonable.
4. Witness statements may, however, be submitted by the Member as part of the pre-hearing process documentation to provide evidence as to the Member's character, the history of the complaint or other relevant background information.
5. A request to withhold any part of the paperwork from the public made by either the Member the subject of the Hearing or the Investigating Officer will be considered and determined by the Director of Corporate Resources in accordance with the provisions of Schedule 12A of the Local Government Act 1972. Should the Director consider that it would be appropriate to withhold some or all of the paperwork, the Committee will give consideration to whether the exemption should be maintained at the Hearing itself.
6. A request for the Hearing to be held in private will be considered and determined by the Hearing Committee at the meeting in conjunction with the provisions of Schedule 12A of the Local Government Act 1972.

Stage Two

The Officer providing administrative support will then produce a covering report detailing the responses received from the Member the subject of the Hearing, the Investigating Officer and the Independent Person and provide a list of any witnesses whom the parties have indicated that they would wish to call before the Committee.

A copy of the agenda and papers, including; the procedure to be followed at the Hearing; the covering report produced by the Officer providing administrative support; the Investigating Officer's final report, and any responses/additional submissions from the Member the subject of the Hearing, the Investigating Officer and the Independent Person, will be circulated to the complainant, the Member the subject of the Hearing, the Members of the Standards Committee Hearing and the Independent Person five clear working days before the Hearing is scheduled to commence.

Where the allegation relates to the conduct of a parish/town councillor, a copy of the agenda and papers will also be provided to the parish/town council clerk.

Copies of the agenda and papers will be made available to members of the press and public in accordance with access to information requirements. Any information that is of a confidential or exempt nature will not, however, be made publicly available.

Part 2 - Procedure to be followed at the Hearing

EAST RIDING OF YORKSHIRE COUNCIL

STANDARDS COMMITTEE

PROCEDURE TO BE FOLLOWED AT A STANDARDS COMMITTEE HEARING

General Provisions

Interpretation

- (a) 'Member' means the Member of the authority who is the subject of the allegations being considered by the Standards Committee, unless stated otherwise. It also includes the Member's nominated representative.
- (b) Independent Person means the Independent Person appointed by the Authority in relation to the investigation in accordance with Section 28(7) of the Localism Act 2011.
- (c) 'Investigator' means the Investigating Officer, and includes his/her nominated representative. Investigator could mean the Monitoring Officer or other Investigating Officer, and his/her nominated representative.
- (d) 'Committee' also refers to 'a Standards Sub-Committee'.
- (e) 'Legal Adviser' means the Officer responsible for providing legal advice to the Standards Committee.

Representation

- (f) The Member may be represented or accompanied during the Hearing by a solicitor, counsel or, with the permission of the Committee, another person.

Advice

- (g) The Committee will take procedural advice from the Democratic Services Manager, or a member of his/her team, at any time during the Hearing and whilst it is considering the outcome.
- (h) The Committee may take legal advice from a legal adviser at any time during the Hearing or whilst it is considering the outcome. The substance of any legal advice given to the Committee should be shared with the Member, the Investigating Officer and the Independent Person if they are present.

Questions by Members of the Committee

- (i) Whilst provision has been made in the procedure for Members of the Committee to ask questions of the different parties at specific times, the Committee Members are permitted to ask questions of any party/person at any time.

Introductions/Explanation of Hearing

1. After all Members of the Committee and all other persons present have been formally introduced, the Chairman will explain how the Committee is going to run the Hearing.

Preliminary Procedural Issues

2. The Committee will resolve any issues or disagreements about how the Hearing will proceed that have not been resolved during the pre-hearing process, including: whether to continue if the Member is not present; whether or not the Member will be represented; in relation to the calling of witnesses; whether or not any party wishes to submit additional documentation/evidence; whether or not any part of the paperwork should be withheld from the public, and whether or not any part of the Hearing should be held in private.

Submission by the Investigating Officer

3. Investigating Officer to address the Hearing Committee on:-
 - (a) the findings of fact,
 - (b) whether or not there has been a breach of the Code of Conduct, and
 - (c) in the event that a breach is found, what – if any – recommendations should be made to the appropriate authority as to sanctions or generally.
4. The Investigating Officer to call their permitted witnesses.
5. Member the subject of the Hearing to ask questions of the Investigating Officer and their witnesses.
6. Independent Person to ask questions of the Investigating Officer and their witnesses.
7. Members of the Committee to ask questions of the Investigating Officer and their witnesses.

Submission by the Member the subject of the Hearing

8. Member the subject of the Hearing to address the Hearing Committee on:-
 - (a) the findings of fact,
 - (b) whether or not there has been a breach of the Code of Conduct, and
 - (c) in the event that a breach is found, what – if any – recommendations should be made to the appropriate authority as to sanctions or generally.
9. Member the subject of the Hearing to call their permitted witnesses.
10. Investigating Officer to ask questions of the Member the subject of the Hearing and their witnesses.
11. Independent Person to ask questions of the Member the subject of the Hearing and their witnesses.
12. Members of the Committee to ask questions of the Member the subject of the Hearing and their witnesses.

Submission by the Independent Person

13. Independent Person to address the Hearing Committee on:-
 - (a) the findings of fact,
 - (b) whether or not there has been a breach of the Code of Conduct, and
 - (c) in the event that a breach is found, what – if any – recommendations should be made to the appropriate authority as to sanctions or generally.
14. Investigating Officer to be given the opportunity to ask questions of the Independent Person.
15. Member the subject of the Hearing to be given the opportunity to ask questions of the Independent Person.
16. Members of the Committee to ask questions of the Independent Person.

Summing up

17. Investigating Officer to sum up.
18. Independent Person to sum up.
19. Member the subject of the Hearing to sum up.

Private Deliberations

20. The Members of the Committee to deliberate in private. The Democratic Services Manager (or their representative) and any member of their team will remain in the meeting room with the Committee Members whilst the private deliberations are taking place.

Decision

21. The decision of the Committee in relation to the findings of fact, whether or not there have been any breaches of the Code of Conduct and whether or not any recommendations as to sanctions or generally will be made to the relevant authority will be announced to all parties.

The written decision

22. A full written decision will be produced within two weeks of the Hearing. The Decision Notice will include a brief statement of facts, the provisions of the Code engaged by the allegations, the view of the Independent Person, the reasoning of the Committee and any sanction applied. The Decision Notice will be provided to the Member the subject of the Hearing, the complainant and, if applicable, the clerk to the appropriate town/parish council and will be published on East Riding of Yorkshire Council's website.