

Appendix B Hearing Procedure

The Council's Procedure for Local Assessment, Investigation and Determination of Complaints states that, as far as possible, the Consideration and Hearing Sub-Committee will follow the model hearing procedure published by Standards for England. The following is based on the model procedure. The Committee may agree to vary the procedure if necessary for the fair and proper conduct of the hearing.

Interpretation

1. 'Subject member' means the member of the authority who is the subject of the allegation being considered by the standards committee, unless stated otherwise. It also includes the member's nominated representative.
2. 'Investigator' means the monitoring officer and includes their nominated representative.
3. 'Committee' also refers to a sub-committee.
4. 'Legal advisor' means the officer responsible for providing legal advice to the standards committee. This may be the monitoring officer, another legally qualified officer of the authority or someone appointed for this purpose from outside the authority.

Representation

5. The subject member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the committee, another person.

Legal advice

6. The committee may take legal advice in private if necessary, 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

7. After all the members and everyone involved have been formally introduced, the chair should explain how the committee is going to run the hearing.

Preliminary procedural issues

8. 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

9. After dealing with any preliminary issues, the committee should then move on to consider whether there are any significant disagreements about the facts contained in the investigator's report. The report will be presented to the Committee at this stage.
10. The subject member will then have an opportunity to respond to the report and state whether there is any disagreement about the facts.
11. If there is no disagreement about the facts, the committee can move on to the next stage of the hearing.
12. 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. If the investigator is not present, the Committee Chair may call witnesses.
13. The subject member should then have the opportunity to make representations to support their version of the facts and, with the committee's permission, to call any necessary witnesses to give evidence.
14. At any time, the committee may question any of the people involved or any witnesses, and may allow the investigator to challenge any evidence put forward by witnesses called by the subject member.
15. 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.
16. If the subject member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. If the investigator is not present, the committee will consider whether it would be in the public interest to continue in their absence. After considering the 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
 - c. Postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if they are not already

Did the subject member fail to follow the Code of Conduct?

17. The committee then needs to consider whether, based on the facts it has heard, the subject member has failed to follow the Code.
18. The subject member should be invited to give relevant reasons why the committee should decide that they have not failed to follow the Code. This should include whether, in the event the Committee decides that the subject member has failed to follow the Code, a sanction should be applied and what form any sanction should take.
19. The committee should then consider any verbal or written representations from the investigator. This should include whether, in the event the Committee decides that the subject member has failed to follow the Code, a sanction should be applied and what form any sanction should take.
20. The committee may, at any time, question anyone involved on any point they raise on their representation.
21. The subject member should be invited to make any final relevant points.
22. The committee will then consider the representations and evidence in private. It will make findings of fact, decide whether the member has failed to follow the Code of Conduct, and if so whether a sanction should be applied and what form any sanction should take.

If the subject member has failed to follow the Code of Conduct

23. The committee may further 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 on whether any sanction should be applied and what form any sanction should take.

Recommendation to the authority

24. Whatever the outcome of the hearing, the committee will consider whether it should make any recommendations to the authority, with a view to promoting high standards of conduct among members.

The decision

25. On their return, the chair will announce the committee's decision.
26. The committee will provide a short written decision on that day. It will also issue a full written decision shortly after the end of the hearing.

Right of appeal

27. If the subject member is found to have failed to follow the Code of Conduct they will be advised of their right to apply in writing to the President of the General Regulatory Chamber of the First-Tier Tribunal (Local Government Standards for England) for permission to appeal against that finding. The application must be received by the President within 21 days of the subject member receiving notice of the Standards Committee's decision.