

## **Standards Committee Hearing Panel/Sub-Committee**

The Monitoring Officer will be the legal adviser to the Hearing Panel. The Monitoring Officer's role is to:

- ensure that members of the Hearing Panel understand its powers and procedures
- ensure that the hearing procedure is fair and will allow the complaint to be dealt with as efficiently and effectively as possible
- make sure that the Member understands the procedures the Hearing Panel will follow
- provide advice to the Hearing Panel during the hearing and their deliberations
- produce a written decision.

Where there is a conflict of interest preventing the Monitoring Officer from performing their role independently (or where the Monitoring Officer is unable to act), the Deputy Monitoring Officer, or another appropriate officer appointed by the Monitoring Officer shall perform those functions in respect of which the conflict exists (or act during the period while the Monitoring Officer is unable to do so). In such circumstances, the relevant references in this procedure to the Monitoring Officer shall be read as referring to the Deputy Monitoring Officer or other officer appointed to perform the functions in question.

This procedure is subject to an overarching requirement that any hearing must be conducted in a manner compatible with the right to a fair hearing, including as provided for by Article 6 of the European Convention on Human Rights.

### **The Panel**

Formal hearings will be conducted by a panel of three councillors drawn from membership of the Standards Committee based on availability plus one of the Independent Persons.

A member of the Standards Committee, against whom a Code of Conduct complaint has been made or who has made a complaint shall not be selected as a member of a Hearing Panel.

### **Notice and in Advance of the Hearing**

Agendas for hearings panels shall be published, and hearings panels shall be held in public unless:

This would involve disclosure of exempt information as defined by Schedule 12A of the Local Government Act 1972 and in all the circumstances of the case, the public

interest in maintaining the exemption outweighs the public interest in disclosing the information.

Before a hearing panel meets, the Monitoring Officer shall write to the member and to the complainant, asking each:

- Whether they accept the finding in the report
- Whether they dispute any factual part of the report, identifying any areas of dispute.
- Whether they wish to call any witnesses at the hearing. Only witnesses identified to the Investigating Officer by the complainant or by the member may be called as witnesses. In law, witnesses do not have to attend a hearing panel.
- Whether the complainant wishes to be present at the hearing. The complainant shall be invited, but is not obliged, to attend the hearing. If the complainant is not present, the procedure below shall be adapted accordingly.
- Whether they wish to be accompanied at the hearing.

In advance of a meeting of a Hearing Panel its members shall seek to agree who will chair the hearing. The Chair may issue directions about the conduct of the hearing. A member of a Hearing Panel shall not act as Chair unless they have received relevant training.

### Hearing Procedure

Subject to the discretion of the Chair, the hearing shall be conducted as follows:

- a. The Investigating Officer will be invited to present their report and to call witnesses.

The complainant, the member and the Panel (including the Independent Person), in that order, may ask questions or seek clarification both of the Investigating Officer and any witnesses.

- b. The complainant will be invited to comment on the report and its findings and to call witnesses.

The Investigating Officer, the member and the Panel, in that order, may ask questions or seek clarification both of the complainant and any witnesses.

- c. The member will be invited to comment on the report and its findings and to call any witnesses.

The Investigating Officer, the complainant and the Panel, in that order, may ask questions or seek clarification both of the member and any witnesses.

d. The Investigating Officer, the complainant and the member will be invited, in that order, to make brief concluding remarks.

The Chair and Panel, including the Independent Person, may ask for advice at any stage from the Monitoring Officer.

### Decision Making

Once the hearing has been concluded, the Hearing Panel, with the Independent Person, will retire to consider its decision. It may call on the Monitoring Officer to provide advice and guidance. The Hearings Panel is required to do the following:

(i) to decide on the facts

(ii) to decide on whether these facts constitute a breach of the Code of Conduct

(iii) to decide on the appropriate sanction.

In deciding whether to uphold the complaint the Hearing Panel must apply, as the standard of proof, the balance of probability, with the burden of proof resting on the Investigating Officer.

The Hearing Panel will then return and announce its findings on whether there has been a breach of the Code, with reasons. If the Hearing Panel consider there has been a breach it will also announce what, if any, sanction it wishes to impose.

### Following the Hearing

The Monitoring Officer shall draft a record of the decision which shall be sent to each of the parties.

### Appealing a Decision about a Complaint

There is no right of appeal against a decision on a Code of Conduct complaint. If the complainant or the member considers that the complaint has not been considered properly by North East Derbyshire District Council, they may be able to complain to the Local Government Ombudsman or seek permission for judicial review.