

Torridge District Council
Standards Committee Hearing Procedure

Procedure to be followed at the Hearing

Interpretation

1. '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. Independent Person(s) means an Independent Person appointed by the Authority in accordance with Section 28(7) of the Localism Act 2011.
3. '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.
4. 'Committee' also refers to 'a Standards Sub-Committee'.
5. 'Legal Adviser' means the officer responsible for providing legal advice to the Standards Committee, and may be the Monitoring Officer or a member of his/her team.

Representation

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

Advice

7. The Committee may take legal or procedural advice from the Legal Advisor at any time during the Hearing or while 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(s) if they are present.

Setting the scene

8. After all the Members and everyone involved have been formally introduced, the Chairman should explain how the Committee is going to run the Hearing.

Preliminary procedural issues

9. The Committee should then resolve any issues or disagreements about how the Hearing should continue that have not been resolved prior to the Hearing, including whether to proceed if the Member is not present etc.

Making findings of fact

10. After dealing with any preliminary issues, the Committee should then consider whether or not there are any significant disagreements about the facts contained in the Investigating Officer's report.
11. If there is no disagreement about the facts, the Committee can move on to the next stage of the Hearing (proceed to item 19 below).
12. If the Member disagrees with any relevant fact in the Investigating Officer's report, without having given prior notice of the specific disagreement, he or she must give good reasons for not mentioning it before the Hearing. After considering the Member's explanation for not raising the issue earlier, the Committee may then:-
 - (a) continue with the Hearing, relying on the information and findings of fact as set out in the Investigating Officer's report (proceed to item 19 below);
 - (b) allow representations to be made as though those representations had been notified in advance (proceed to item 13 below), or
 - (c) postpone the Hearing to arrange for appropriate witnesses to be present.
13. If there is a specific disagreement which has been notified in advance, the Investigating Officer should be invited to make any necessary representations to support the relevant findings of fact in the report. With the Committee's permission, the Investigating Officer may call any necessary supporting witnesses to give evidence. The Committee may give the Member an opportunity to challenge any evidence put forward by the Investigating Officer and any witness called by the Investigating Officer. The Independent Person(s) will then be given the opportunity to ask any questions of the Investigating Officer or any of their witnesses.
14. The Member should then have the opportunity to make representations to support his or her version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence.
15. At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the Investigating Officer to challenge any evidence put forward by the Member and witnesses called by the Member. The Independent Person(s) will then be given the opportunity to ask any questions of the Member or any of their witnesses.
16. The Independent Person(s) will be given an opportunity to make any representations on the facts and the Investigating Officer and Member will be allowed to ask questions of the Independent Person(s).
17. The Committee will then deliberate in private. Only Committee Members, the Committee's Legal Adviser, and the Committee's minute taker will be present during deliberations.
18. The Chairman will then announce to all parties the Committee's findings of fact.

Did the Member fail to follow the Code?

19. The Committee then needs to consider whether or not, based on the facts it has found, the Member has failed to follow the Code of Conduct.
20. The Member should be invited to give relevant reasons why the Committee should not decide that he/she has failed to follow the Code.
21. The Committee should then consider any representations from the Investigating Officer.
22. The Committee should then consider any representations from the Independent Person(s).
23. The Committee may, at any time, question anyone involved on any point they raise in their representations.
24. The Committee will then deliberate in private. Only Committee Members, the Committee's Legal Adviser, and the Committee's minute taker will be present during deliberations.
25. The Chairman will then announce to all parties the Committee's decision as to whether or not the Member has failed to follow the Code of Conduct.

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

26. If the Committee decides that the Member has not failed to follow the Code of Conduct, it shall move on to consider whether it should make any recommendations to the authority.

If the Member has failed to follow the Code

27. If the Committee decides that the Member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the Investigating Officer, the Member and the Independent Person(s) as to whether or not the Committee should impose any sanctions upon the Member, make any recommendations concerning sanctions to the authority, or whether it should make any general recommendations to the authority with a view to promoting high standards of conduct amongst Members.
28. The Committee may question the Investigating Officer, the Member and Independent Person(s), and take advice to make sure it has the information it needs in order to make an informed decision.
29. The Committee will then deliberate in private. Only Committee Members, the Committee's Legal Adviser, and the Committee's minute taker will be present during deliberations.
30. The Chairman will then announce the Committee's decision to all parties.

The written decision

31. The Committee will announce its decision on the day of the Hearing. A full written decision will be produced within two weeks of the Hearing. The full written decision will be provided to the Member, the complainant and the clerk to the appropriate town/parish council, if applicable.