

**PROCEDURE FOR DEALING WITH COMPLAINTS OF MISCONDUCT
AGAINST MEMBERS OF THE COUNCIL**

1.0 INTERPRETATION

“Authority” means Leeds City Council;¹

“Chair” means the Chair of the Committee;²

“Code of Conduct” means the Code of Conduct adopted by the Authority;³

“Committee” means the Standards Committee;

“Complainant” means the person who made the complaint;

“day” means a clear working day unless otherwise indicated;

“ESO” means the Ethical Standards Officer appointed by the Standards Board who referred the Referred Complaint to the Monitoring Officer, or the ESO’s nominee;

“Investigator” in respect of a Referred Complaint for Determination means the ESO who referred the report to the Monitoring Officer or the ESO’s nominee.⁴ In respect of a Referred Complaint for Investigation, it means the Monitoring Officer or nominee. In respect of a Local Complaint, it means the Monitoring Officer or nominee;

“Legal Advisor” means the person providing legal advice to the Committee;⁵

“Local Code” means ⁶

- the National Code of Local Government Conduct where the alleged breach is committed before 5 April 2002; or
- any of the Authority’s Protocols/Codes which refer to the conduct of members, other than the Code of Conduct; or
- a breach of the Members’ Allowances Scheme in relation to the requirement to submit six monthly reports, or a gross neglect of duties highlighted by such a report.

“Local Complaint” means a complaint that the Member has breached a Local Code;

¹ Or, where relevant, the parish council within its area, in respect of which the Standards Committee is exercising functions under Part III of the Local Government Act 2000.

² Or other Member elected by the Committee in the absence of the Chair.

³ Under Section 51 of the Local Government Act 2000.

⁴ In respect of a hearing it also includes the Monitoring Officer’s nominee where the ESO has not chosen to attend the hearing.

⁵ This will be the Monitoring Officer or nominee who may be another legally qualified officer of the Authority or someone legally qualified who is appointed for this purpose from outside the Authority.

⁶ The Monitoring Officer will provide copies of these on request.

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“Member” means the Member or co-opted member⁷ of the Authority who is the subject of the complaint of misconduct. It also includes the Member’s nominated representative where the context requires this;

“Party” means the Member or the Investigator but does not include the Complainant;

“Referred Complaint” means a complaint that a Member has breached the Authority’s Code of Conduct, and which an ESO has referred to the Monitoring Officer⁸;

“Referred Complaint for Determination” means a Referred Complaint which the ESO has investigated and referred for the Standards Committee to determine;⁹

“Referred Complaint for Investigation” means a Referred Complaint which the ESO has referred for the Monitoring Officer to investigate;¹⁰

“Standards Board” means the Standards Board for England.

2.0 GENERAL

2.1 This procedure applies to complaints made by Members or officers of the Authority or members of the public. These may be Local Complaints made to the Monitoring Officer or Referred Complaints, which were originally made to the Standards Board.

2.2 This is the usual procedure to be followed in respect of both Local and Referred Complaints.

2.3 The general principles of conduct¹¹ will be used by the Committee as a guide to interpretation of the Local Codes and the Code of Conduct.

2.4 Except for the requirements¹² which are listed below, the Committee (or in relation to the pre-hearing process, the Chair), may vary the procedure as it considers appropriate in the circumstances. The Committee will deal with a complaint in the manner which it considers most suitable to clarify the issues before it, and generally to the just handling of the proceedings.

2.5 Requirements which may not be waived:

2.5.1 Where the Committee is considering a Referred Complaint for Determination, the Committee will ensure that the hearing takes place:

⁷ As defined in Section 47 Local Government Act 2000. It also includes a former member or co-opted member. It does not include Parish Council members unless they are the subject of a Referred Complaint.

⁸ Under section 64(2) or section 60(2) or (3) of the Local Government Act 2000.

⁹ In accordance with section 64(2) of the Local Government Act 2000

¹⁰ In accordance with section 60(2) or (3) of the Local Government Act 2000

¹¹ As set out in the Relevant Authorities (General Principles) Order 2001, and attached at the end of this procedure.

¹² These are imposed by the Local Authorities (Code of Conduct) Local Determination Regulations 2003. The Regulations apply only to Referred Complaints, but where appropriate the requirements have been extended to apply to Local Complaints dealt with under this procedure.

- within three months of the date on which the Monitoring Officer received the report from the ESO; and
- at least 14 days¹³ after the date on which the Monitoring Officer sent the Member a copy of the report, unless the Member agrees to an earlier date;

2.5.2 Where the Committee is considering a Referred Complaint for Investigation, the Committee will ensure that the hearing takes place:

- within three months of the date on which the Investigator completed the report; and
- at least 14 days¹⁴ after the date on which the Investigator sent the Member a copy of the report, unless the Member agrees to an earlier date;

2.5.3 Where the Committee is considering a Local Complaint, the Committee will ensure that the hearing takes place:

- within three months of the date on which the Investigator completed the report, or as soon as reasonably practicable after that; and
- at least 14 days¹⁵ after the date on which the Investigator sent the Member a copy of the report, unless the Member agrees to an earlier date;

2.5.4 Where the Committee is considering either a Local or a Referred Complaint, the Committee will ensure that:

- the hearing is conducted having regard to guidance issued by the Standards Board;¹⁶
- the Committee gives the Member an opportunity to present evidence in support of the Member's case; and
- the Committee gives the Member, or, at the choice of the Member, the Member's representative, the opportunity to make representations at the hearing. These may be made either orally, or, at the choice of the Member, in writing.

2.6 Representation

A Member may be represented by a barrister, a solicitor or with the consent of the Committee, any other person the Member wishes.¹⁷

¹³ These are not working days.

¹⁴ These are not working days.

¹⁵ These are not working days.

¹⁶ Under Section 57 of the Local Government Act 2000

3.0 RECEIPT/PRELIMINARY INVESTIGATION OF LOCAL COMPLAINTS AND RECEIPT OF REFERRED COMPLAINTS FOR INVESTIGATION

3.1 Receipt of Local Complaints

3.1.2 A Local Complaint must be made in writing to the Monitoring Officer.

3.1.3 The Monitoring Officer will acknowledge receipt of a Local Complaint to the Complainant within 5 days.

3.1.4 The Monitoring Officer will notify the Member within 5 days of receiving the Complaint¹⁸:

- that s/he has received the complaint;
- who the complainant is;¹⁹
- what the complaint is about, including which Local Code it is alleged that the Member has breached; and
- the procedure which will be followed in respect of the complaint.

3.2 Preliminary Investigation- Local Complaints

3.2.1 The Monitoring Officer or nominee will carry out a preliminary investigation of a Local Complaint in order to decide whether it warrants a full investigation.

3.2.2 The Monitoring Officer will complete the preliminary investigation within 15 days of receiving the Local Complaint, or as soon as reasonably practicable after that.

3.2.3 The Monitoring Officer will consider as part of the preliminary investigation:-

- whether the conduct complained of may amount to breach of a Local Code;
- whether the conduct complained of merits investigation by some other agency (e.g. the police);
- whether the Complaint has already been investigated; and
- whether the Complaint is supported by sufficient information (either provided by the Complainant or obtained by the Monitoring Officer from initial enquiries) to justify a full investigation.

3.2.4 The purpose of the preliminary investigation is to enable the Monitoring Officer to identify if the Local Complaint:-

- is frivolous or unsupported by any reliable information;

¹⁷ The Committee will usually provide its consent, unless the representative is directly involved in the Complaint.

¹⁸ In exceptional cases where the Monitoring Officer has reason to believe that there is a serious risk of intimidation of witnesses or destruction of evidence, the Monitoring Officer may complete the preliminary investigation without notifying the Member;

¹⁹ In accordance with the Authority's Whistleblowing policy, the identity of the Complainant may be protected in some cases.

- falls outside the Committee's terms of reference; or
- has already been investigated.

3.2.5 Within 3 days of completing the preliminary investigation, the Monitoring Officer will:-

- decide whether or not the Local Complaint warrants a full investigation; and
- notify the Complainant and the Member of the decision. Where the decision is not to take further action s/he will also give reasons for this.

3.3 Receipt of referred complaints for investigation

3.3.1 On receipt of a Referred Complaint for Investigation, unless otherwise directed by the ESO, the Monitoring Officer shall inform

- the Member;
- the Complainant; and
- any Parish Council concerned.

that the Complaint has been referred to the Monitoring Officer for investigation.

3.3.2 The Monitoring Officer will also

- explain what will happen next;
- explain who will be in contact again; and
- provide any directions s/he wants to make regarding the investigation.

4.0 **INVESTIGATION OF COMPLAINTS (LOCAL COMPLAINTS AND REFERRED COMPLAINTS FOR INVESTIGATION)**

4.1 The Monitoring Officer may act as Investigator, or may appoint a nominee to do this²⁰.

4.2 The Monitoring Officer will have regard during the conduct of the investigation to any relevant guidance issued by the Standards Board to Monitoring Officers.

4.3 The purpose of a full investigation is to establish the facts of the Complaint, so that the Committee may then make a properly informed judgement about it.

4.4 When conducting an investigation, the Investigator will

- seek to interview and/or obtain information from anybody within or outside the Authority who may be able to help establish the facts.

²⁰ The Monitoring Officer must consider in respect of each Local Complaint whether s/he may have, or be perceived to have, a conflict of interest if s/he acts as Investigator, which would make it inappropriate for the Monitoring Officer to act as Investigator. In respect of a Referred Complaint for Investigation, the Monitoring Officer may appoint the Deputy Monitoring Officer, or any person nominated under the provisions of section 82A(2) or (3) of the Local Government Act 2000 to perform any function.

4.5 When conducting an investigation the Investigator may:

- require any of the Authorities concerned to provide such advice and assistance as s/he may reasonably need to assist him or her in the investigation;
- require the Authority (other than a Parish Council), to meet the cost of any advice and assistance provided so far as such cost is reasonable²¹; and/or
- require the Authority to afford reasonable access to such documents in the possession of the Authority as appear to the Investigator to be necessary for the purpose of conducting the investigation.

4.6 Failure by an officer to assist the Investigator will be referred to the relevant Authority (where a Parish Council) or to the Director and/or Chief Executive of the Authority for appropriate action to be considered, which may include disciplinary investigation.

4.7 Referral back to ESO

Where the Investigator of a Referred Complaint for Investigation conducts an investigation, s/he may at any stage before completing the investigation request in writing to the ESO that the complaint be referred back to the ESO for the ESO to conduct the investigation. The Investigator will comply with any direction given by the ESO in response.

4.8 The Investigator will make clear to any person interviewed that any information which that person provides may be shared with the Committee and may be made public. Any person interviewed will be entitled to be accompanied by a representative of their choice.

4.9 The Investigator will:-

- invite the Complainant for interview; and
- give the Complainant the opportunity to submit any additional material which the Complainant considers is relevant to the investigation.

4.10 The Investigator will:-

- give the Member a full copy of the complaint;²²
- invite the Member for interview;
- give the Member the opportunity to submit any additional material which the Member considers is relevant to the investigation;
- invite the Member to identify any person who the Member considers should be interviewed as part of the investigation; and
- give the Member the opportunity to comment on the allegations made.

²¹ If the Authority is a parish council, the Investigator may require Leeds City Council as responsible authority to meet any costs incurred by that Parish Council so far as such cost is reasonable

²² In accordance with the Authority's Whistleblowing Policy, the identity of the Complainant may be protected in some cases in respect of a Local Complaint. For a Referred Complaint, it may also be withheld at the direction of the ESO.

4.11 Draft Reports

4.11.1 When the Investigator has concluded the investigation, the Investigator will consider whether to issue a draft report before the final report.

4.11.2 Where the Investigator decides to issue a draft report, s/he will issue this to

- the Member; and
- the Complainant

for review and comment, giving the Investigator the opportunity to check facts and ensure that all aspects of the case have been explored in sufficient detail.

4.11.3 The Investigator does not need to send the draft report to the relevant parish clerk.

4.11.4 The Investigator will mark the draft report “ confidential” and “draft”.

4.11.5 The Member may make representations about the draft report in whatever manner is most convenient to him/her.

4.11.6 The Investigator will take whatever action s/he considers to be appropriate in view of any representations received.

4.12 The Final Report

4.12.1 The Report should be written and contain:-

- a “final” marking;
- the date;
- (where a Referred Complaint) the legislation under which the investigation is being carried out;
- the relevant sections of the Local Code or Code of Conduct;
- evidence;
- the Investigator’s findings of fact;
- the Investigator’s reasoning;
- the investigator’s finding whether
 - there has been a failure to comply with the Local Code or Code of Conduct a “finding of failure”; or
 - there has not been a failure to comply with the Local Code or Code of Conduct – a “ finding of no failure”; and
- documents relied on by the Investigator in reaching his or her conclusions.

4.12.2 The report should state that it represents the Investigator’s final findings and will be presented to the Standards Committee.

5.0 NOTIFICATION OF REPORT

5.1 Final Reports – Local Complaints and Referred Complaints for Investigation

5.1.1 The Investigator will send a copy of the final report to

- the Member;
- the Complainant;
- the Standards Committee²³;
- the clerk of any relevant parish council²⁴;
- the ESO²⁵; and
- the Monitoring Officer²⁶

5.1.2 The report will be accompanied by information explaining the circumstances under which the Standards Committee may conduct a hearing into the allegations, and the procedure for this.

5.2 Local Complaints and Referred Complaints for Investigation

5.2.1 The Monitoring Officer will:

within 2 days of completing or receiving the report:

- ask the Committee Clerk to make arrangements for the Committee either to
 - start the pre-hearing process (where the report contains a finding of failure); or
 - consider the report in accordance with paragraph 6 below (where the report contains a finding of no failure);
- notify the Committee Clerk of the date on which the report was completed and the date on which the report was sent to the Member;

within 5 days of completing or receiving the report, tell the Committee Clerk and the Chair who the Legal Advisor to the Committee will be for the pre-hearing process and the hearing.²⁷

5.3 Referred Complaint for Determination

5.3.1 When the Monitoring Officer receives a copy of an Investigator's report relating to a Referred Complaint for Determination s/he will:-

- within 2 days, send a copy of the report to the Member;
- within 2 days, send a copy of the report to all members of the Committee;²⁸

²³ Members of the Committee are advised that the contents of the Investigator's report remains confidential until all or part of it is brought into the public domain at the hearing.

²⁴ Referred Complaint only

²⁵ Referred Complaint only

²⁶ Where the Monitoring Officer has not acted as Investigator

²⁷ The Monitoring Officer will usually act as Legal Advisor, but must consider in respect of each Complaint whether s/he may have, or be perceived to have, a conflict of interest if s/he acts as Legal Advisor, which would make it inappropriate to do so.

²⁸ Members of the Committee are advised that the contents of the Investigator's report remains confidential until all or part of it is brought into the public domain at the hearing.

- within 2 days, ask the Committee Clerk to make arrangements for the Committee to consider the report, and to start the pre-hearing process and notify the Committee Clerk of the date on which the report was received from the Investigator and on which it was sent to the Member;
- within 5 days, tell the Committee Clerk and the Chair who the Legal Advisor to the Committee will be for the pre-hearing process and the hearing.²⁹

6.0 CONSIDERATION OF REPORT BY THE COMMITTEE WHERE FINDING OF NO FAILURE (Local Complaints and Referred Complaints for Investigation)

- 6.1 Where the Committee receives a report which contains a finding of no failure, it will meet to consider the report³⁰ and decide whether:
- it accepts the Investigator's finding (a "finding of acceptance"), or
 - the matter should be considered at a hearing of the Standards Committee.
- 6.2 At this meeting, the Committee will consider the report; it will not interview witnesses, nor take representations from the parties.
- 6.3 The Committee may make recommendations to the Authority on matters arising from the report.
- 6.4 As soon as reasonably practicable after making a finding of acceptance, the Committee shall give written notice of the finding to
- the Member;
 - the ESO³¹;
 - any Parish Council³²; and
 - the Complainant³³
- 6.5 The Committee shall also as soon as reasonably practicable, arrange for a notice to be published stating that the Committee have found that there has not been a failure on the part of the Member to comply with the Code of Conduct. This notice shall not be published if the Member requests that it should not be.

7.0 HEARINGS BY COMMITTEE

- 7.1 The Standards Committee³⁴ shall conduct a hearing in relation to

²⁹ The Monitoring Officer will usually act as Legal Advisor, but must consider in respect of each Complaint whether s/he may have, or be perceived to have, a conflict of interest if s/he acts as Legal Advisor, which would make it inappropriate to do so.

³⁰ In the event that the Committee receives a report with a number of findings, when one or more of those findings indicate a breach of the Code of Conduct or a Local Code, the Committee will not consider the report prior to the hearing in relation to the findings of breach. In these circumstances the Monitoring Officer will ask the Committee Clerk to start the pre-hearing process in accordance with Rule 5.2.1. The Committee, or the Parish and Town Council's Hearings Sub-Committee as appropriate, will consider the entirety of the report at the hearing including the finding of no breach.

³⁰ Referred Complaint only

³¹ Referred Complaint only

³² Referred Complaints only

³³ Also, to the Standards Committee of the authority concerned, if not the Standards Committee that made the finding, and the Standards Committee of any other authority concerned, if not the Standards Committee that made the finding.

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- a Referred Complaint for Determination;
- a report prepared by an Investigator which concerns a finding of failure; or
- a Complaint which the Committee has decided should be considered at a hearing, in accordance with paragraph 6 above.

8.0 THE PRE-HEARING PROCESS

8.1 The pre-hearing process will only deal with procedural issues. It will normally be carried out in writing, although the Chair has discretion to convene a pre-hearing meeting with the Parties, where the Chair considers this is necessary.

8.2 The purpose of the pre-hearing process is to:

- identify whether the Member disagrees with any of the findings of fact in the 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; and
- decide whether or not any parts of the report or other documents should be withheld from the public.

8.3 After consultation with the Chair and within 3 days of receiving notification from the Monitoring Officer the Committee Clerk will:-

- provide a copy of this procedure to the Member;
- send the Member an outline of his/her rights and responsibilities (Annex A to this procedure); and
- invite the Member to respond in writing by a set time³⁵ to the questions set out in Forms 1, 2, 3, 4 and 5 (Annex B to this procedure), in order to find out whether the Member:
 - disagrees with any of the findings of fact in the report, including the reasons for any disagreements;
 - wishes to make representations about any sanctions to be imposed if the Committee decide that the Member has breached the Code of Conduct or a Local Code;
 - wants to be represented at the hearing by a solicitor, barrister or any other person;
 - wants to give evidence to the Committee, either verbally or in writing;
 - can come to the hearing on the proposed date;
 - wants any part of the hearing to be held in private; and
 - wants any part of the report or other relevant documents to be withheld from the public.

³⁴ Or, in the case of a complaint in relation to a Parish or Town Councillor, the Parish and Town Council Hearings Sub Committee.

³⁵ The Chair will decide the set time in relation to each Complaint, according to the relevant circumstances, but it will be a minimum of 10 days.

8.4 After consultation with the Chair and within 3 days of receiving the Member's response the Committee Clerk will:

- send the Member's response to the Investigator for comment and response within a set time³⁶ to the questions set out in Forms 6 and 7 (Annex C to this procedure) in order to find out whether the Investigator:
 - wants to be represented at the hearing;
 - wants to call relevant witnesses to give evidence to the Committee;
 - wants any part of the hearing to be held in private; and
 - wants any part of the report or other relevant documents to be withheld from the public.
- After the set time periods have expired, (or after the Committee Clerk has received responses from both Parties if this is earlier), the Committee Clerk will refer the responses of the Parties to the Chair. The Chair will review the information received, and, after consultation with the Legal Advisor, may decide any issues which will help the Committee to determine the complaint.

8.6 These decisions may include but are not limited to the following matters:

- whether the Committee consents to the Member being represented by a non-legally qualified representative;
- whether witnesses will be heard at the hearing;
- whether the Committee wishes to call any witnesses to attend who may help the Committee to determine the Complaint;³⁷
- whether the Committee is likely to refuse to hear evidence from any of the witnesses notified by either Party, and the reasons for this;³⁸
- the date, time and place of the hearing;
- a request to either Party to provide by a set date such details, supplementary statement or access to documents as may be reasonably required for the determination of the Complaint; and
- in respect of a Referred Complaint, where the ESO has indicated that the ESO does neither wish to attend, nor be represented at the hearing, a request to the Monitoring Officer to nominate a person to act as Investigator at the hearing.

8.7 Pre-hearing process summary

8.7.1 The Chair, in consultation with the Legal Advisor will then prepare a pre-hearing process summary, in accordance with Annex D to this procedure. This will be sent to the Parties at least 10 days before the hearing.

8.7.2 The purpose of the summary is to:

³⁶ The Chair will decide the set time in relation to each complaint, according to the relevant circumstances, but will be a minimum of 10 days.

³⁷ This may include the Complainant. The Committee cannot however order witnesses to appear or give evidence.

³⁸ The Party will be able to make representations about this to the Committee at the beginning of the hearing, provided that the Party has notified the Committee Clerk at least 10 days before the hearing that they intend to do so.

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- set the date, time and place for the hearing;³⁹
 - summarise the Complaint;
 - outline the main facts of the Complaint that are agreed;
 - outline the main facts which are not agreed;
-
- note whether the Member or the Investigator will go to or be represented at the hearing;
 - list those witnesses, if any who will be asked to give evidence; and
 - outline the proposed procedure for the hearing.

9.0 HEARINGS - PROCEDURE

Note : the Committee may vary this procedure in respect of hearings in accordance with the provisions of paragraphs 2.3 and 2.4 above.

9.1 Recording the Hearing

All hearings by the Committee shall be recorded in full by tape recording, in accordance with Annex E to this procedure.

9.2 Purpose of the Hearing

The purpose of the hearing is to test the report, by examining the reasoning contained within the report and the quality of the evidence relied upon. The Committee's approach should therefore be inquisitorial, based on seeking information in order to identify potential flaws in the report and to clarify issues, rather than an adversarial approach where the focus would be on hearing evidence and cross-examining witnesses.

9.3 Documents

9.3.1 The Committee Clerk, after consultation with the Legal Advisor and the Parties, will collate the documents provided by the Parties to be considered by the Committee during the hearing.

9.3.2 Where a Party has asked for a document be kept private, this document will not be made available to the public with the agenda before the meeting.⁴⁰

9.4 Witnesses

9.4.1 A Member may arrange for witnesses to attend at a hearing as the Member wishes, although the Committee may place a limit on the number of witnesses a Member may call if it is of the view that the number of witnesses is unreasonable.

³⁹ Unless a complaint is complicated, the Committee will aim to complete a hearing in one sitting or in consecutive sittings of no more than 1 day in total.

⁴⁰ The Committee will have to consider which documents should be made available for public inspection – see 6.9.2 below.

9.4.2 The Committee has the right to govern its own procedures as long as it acts fairly. For this reason the Committee may choose not to hear from certain witnesses if it believes that they will simply be repeating evidence of earlier witnesses or if a witness will not be providing evidence that will assist the Standards Committee to reach its decision.

9.4.3 The Committee may arrange for witnesses to attend as it considers appropriate.

9.5 Legal Advice

The Committee may take legal advice from its Legal Advisor at any time during the hearing or while it is deliberating. The substance of any legal advice given to the Committee should be shared with the Parties attending the hearing.

9.6 Questioning

9.6.1 The Committee controls the procedure and evidence presented at a hearing, including the way witnesses are questioned.

9.6.2 At any time during the hearing the Committee may directly question any witness or Party on any point raised either in evidence or by way of representations.

9.6.3 It is for the Committee to decide whether Parties may question or cross-examine witnesses. The Committee can ask for questions to be directed through the Chair.

9.7 New Evidence

9.7.1 The Committee will not allow the Member to raise new disagreements over findings of fact in the Investigator's report at the hearing unless there are good reasons for doing so.⁴¹

9.7.2 If the Member disagrees with any relevant fact in the Investigator's report without having given prior notice of the disagreement⁴², the Committee will ask the Member for the reasons why the evidence was not raised before.

9.7.3 At a hearing of a Referred Complaint at which the ESO is not present, the Committee will consider whether or not it would be in the public interest to continue in the ESO's absence, even if an Investigator has been nominated by the Monitoring Officer for the purpose of the hearing.

9.7.4 After considering the Member's explanation for not raising the issue earlier the Committee may then:

⁴¹ The Committee should not re-open an investigation. However if more evidence becomes available after the completion of the investigation the Committee may consider that evidence during the course of the hearing.

⁴² by raising it in the course of the pre-hearing process, or as soon as practicable after that.

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- continue with the hearing relying on the information in the Investigator's report; or
- allow the Member to make representations about the issue, and allow the Investigator to respond and call any witnesses, as necessary; or
- postpone the hearing to arrange for appropriate witnesses to be present, or for the ESO to be present.

9.8 Failure to attend

9.8.1 If either Party fails to attend a hearing, the Committee will consider whether there is sufficient reason for the failure. The Committee shall consider any representations submitted by the Party in writing before making any determination in the Party's absence.

9.8.2 If the Committee does not consider that there is sufficient reason, it will consider the complaint and make a determination in the Party's absence.

9.8.3 If the Committee does consider there is sufficient reason, it will adjourn the hearing to another date.⁴³

9.9 Adjournment for further information or investigation

9.9.1 The Committee may at any stage prior to the conclusion of the hearing adjourn the hearing and require the Investigator to seek further information or undertake further investigation on any specified point.

9.9.2 The Committee may not adjourn the hearing on more than one occasion under this paragraph.

9.10 Referral back to the ESO- Referred Complaints

9.10.1 The Committee may at any stage prior to the conclusion of the hearing adjourn the hearing and make a written request to the ESO that the matter be referred back to the ESO for investigation. Any such request must set out the Committee's reasons for making it.

9.10.2 The Committee shall comply with any direction given by the ESO in response to such a request. Where the ESO directs that the Committee should continue to deal with the complaint, the hearing must be held within three months of the direction.

9.11 Stage 1: Introductions and procedure

9.11.1 The Committee and its advisors will assemble in the hearing room⁴⁴.

⁴³ In respect of Referred Complaints, this is subject to the Committee complying with the requirement that the hearing takes place within three months of the date when the Monitoring Officer received the report from the ESO.

⁴⁴ At no time before, during or after the hearing, should either party be present or represented before the Committee without the other party being also present or represented, unless the other party has failed to attend and the Committee is discussing whether to proceed in his/her absence or has decided to proceed in his/her absence.

9.11.2 At the start of the Hearing all parties present will be invited to enter the hearing room.

9.11.3 The Chair will ensure that the Parties are formally introduced.

9.11.4 The Committee will consider whether to exclude the public from any parts of the hearing.⁴⁵ There is a clear presumption that hearings will be held in public. The Committee will also have to decide which parts of the agenda are not to be made available for public inspection.

9.11.5 The Legal Advisor will outline the procedure which the Committee proposes to follow for the hearing. If the Committee proposes to vary the procedure from that set out below, it will invite and consider representations on this from the Parties, before proceeding.

9.12 Stage 2: Outstanding Preliminary procedural issues

9.12.1 The Committee will then invite the Parties to make representations about any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

9.12.2 The Committee will then decide these issues or disagreements.*

9.13 Stage 3: Making findings of fact

9.13.1 After dealing with any preliminary issues, the Committee will consider whether or not there are any significant disagreements about the facts contained in the Investigator's report.

9.13.2 If there is no significant disagreement about the facts, the Committee will move on to Stage 2 of the hearing.

9.13.3 If there is a disagreement, the Committee will invite the Investigator to make any necessary representations to support the relevant findings of fact in the report.

9.13.4 The Investigator may, with the agreement of the Committee, call any necessary supporting witnesses to give evidence.

9.13.5 The Committee may give the Member an opportunity to challenge any evidence put forward by any witness called by the Investigator.

⁴⁵ See further Annexes F and G. The Committee will need to keep this issue under review throughout the hearing, and may consider excluding the public on each occasion it makes its deliberations in making any finding on a complaint – marked * in this procedure. If evidence is heard in private, the Legal Advisor should warn those present not to mention that evidence during the public parts of the hearing, or outside the hearing.

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9.13.6 The Member will then have the opportunity to make representations to support the Member's version of the facts and, with the agreement of the Committee, may call any witnesses to give evidence.

9.13.7 The Committee may allow the Investigator to challenge any evidence put forward by witnesses called by the Member.

9.13.8 If the Member disagrees with most of the facts, the Committee may ask the Investigator to start by making representations about all the relevant facts, instead of discussing each fact individually.

9.13.9 The Committee will make findings in relation to the facts *.

9.13.10 The Chair will announce the Committee's findings of fact.

9.14 Stage 4: Did the Member fail to follow the Code⁴⁶?

9.14.1 The Committee will then consider whether or not, based on the facts it has found, the Member has failed to follow the Code.

9.14.2 The Committee will invite the Member to give relevant reasons why the Committee should decide that the Member has not failed to follow the Code, and consider any written representations from the Member about this.

9.14.3 The Committee will then invite the Investigator to give relevant reasons why the Committee should decide that the Member had failed to follow the Code, and consider any written representations from the Investigator about this.

9.14.4 The Member will be invited to make any final relevant representations, in response to anything raised by the Investigator.

9.14.5 The Committee will then decide whether or not the Member has failed to follow the Code.*

9.14.6 The Chair will announce the Committee's decision as to whether or not the Member has failed to follow the Code.

9.14.7 Where the Committee decides that the Member has not failed to follow the Code, the Committee will then move on to Stage 6 of this procedure.

9.15 Stage 5: Sanctions

9.15.1 The Committee will consider any verbal or written representations from the Investigator and the Member about:-

⁴⁶ In relation to a Referred Complaint this means the Code of Conduct, and in relation to a Local Complaint, the Local Code.

- whether or not the Committee should impose any sanction;
- what form any sanction should take;

9.15.2 The Committee will take into account any guidelines it has agreed for imposing sanctions.

9.15.3 The Committee will then decide whether or not to impose a sanction on the Member, and if so what the sanction should be *, in accordance with Annex H to this procedure.⁴⁷

9.15.4 The Committee will also decide how much of the information which it has considered should be made available for public inspection after the announcement of its decision in public.⁴⁸

9.15.5 The Chair will announce the Committee's decision.

9.16 Stage 6: Recommendations to the Authority

9.16.1 The Committee will go on to consider any verbal or written representations from the Investigator about whether or not the Committee should make any recommendations to the Authority, with a view to promoting high standards of conduct among Members.

9.17 Stage 7: Making the Findings Public

9.17.1 The Chair will confirm the Committee's decision, with reasons, in public at the end of the hearing, and provide a short written decision on that day.

9.17.2 The Committee Clerk will where possible prepare the full written decision in draft on the day of the hearing.

9.17.3 In relation to a Referred Complaint⁴⁹, the Committee shall within 10 days, or as soon as reasonably practicable, take reasonable steps to give written notice of its findings and the reasons for the findings to:

- the Member;
- the ESO;
- the Standards Committee;

⁴⁷ In accordance with Regulation 7 of the Local Authorities (Code of Conduct) Local Determination Regulations 2000, in relation to Referred Complaints, the Committee must make one of the following findings:-

- that the Member had not failed to comply with the Code of Conduct; or
- that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of the matters which were considered by the Committee; or

that the Member had failed to comply with the Code of Conduct and that a sanction should be imposed.

⁴⁸ The Standards Committee Protocol will be followed in relation to any dealings with the media about the Complaint.

⁴⁹ In accordance with Regulation 8 of the Local Authorities (Code of Conduct) Local Determination Regulations 2003

Standards Committee Procedure Rules

- the Standards Committee of any other authority concerned⁵⁰;
- any Parish Council concerned; and
- the Complainant.

9.17.4 The decision shall be in the format set out in Annex I.

9.17.5 The Committee Clerk shall also arrange for a summary of the finding to be published in one or more newspaper circulating in the area of the Authority⁵¹, except where the Committee has found that the Member had not failed to comply with the Code of Conduct, and the Member asks for the summary not to be published.

9.17.6 In relation to Local Complaints, the Committee shall within 10 days, or as soon as reasonably practicable, give written notice of its findings and the reasons for the findings to:

- the Member;
- the Investigator;
- the Standards Committee; and
- the Complainant.

10.0 MONITORING

10.1 The Monitoring Officer will report annually to the Committee on how the “gate-keeping” role has been discharged, in respect of preliminary investigations under paragraph 3.2, and in respect of reports where s/he decided that no further action should be taken, under paragraph 4.1.

10.2 The Monitoring Officer will report to the Standards Committee annually on whether the arrangements set out in this procedure have been complied with, and will include any proposals for amendments in the light of any issues that have arisen during the year.

11.0 REVIEW OF PROCEDURE

The Standards Committee will review this procedure at the completion of each complaint determined in accordance with it.

⁵⁰ where at the time of the complaint, the Member was a member of another authority

⁵¹ In accordance with Regulation 8 of the Local Authorities (Code of Conduct) Local Determination Regulations 2003

GENERAL PRINCIPLES GOVERNING MEMBERS' CONDUCT

1. Selflessness

Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

2. Honesty and Integrity

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

3. Objectivity

Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

4. Accountability

Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

5. Openness

Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

6. Personal Judgement

Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

7. Respect for Others

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

8. Duty to Uphold the Law

Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

9. Stewardship

Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

10. Leadership

Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

NOTE

The principles are expected to govern only the official conduct of Members and co-opted Members of the Council, except the second and eighth, which have effect on all occasions.

Leeds City Council

Procedure for dealing with complaints of misconduct against Members

MEMBERS' RIGHTS AND RESPONSIBILITIES - OUTLINE

You have the right to:

- go to the hearing and present your case;
- call a reasonable number of witnesses to give relevant evidence to the Standards Committee; and
- be represented at the hearing by a solicitor, barrister, or with the consent of the Committee, any other person. (You will, however, be responsible for meeting the cost of any representation).

Any disagreements with the findings of fact in the Investigator's report must be raised during the pre-hearing process. **The Committee will not consider any new disagreements about the report's findings of fact at the hearing itself, unless there are good reasons why these have not been raised beforehand.**

You do not have to go to the hearing or be represented. If you choose not to go to the hearing, the Committee may make a determination in your absence.

The hearing will be held in public and the relevant papers will be available for public inspection unless the Standards Committee is persuaded that there is good reason to exclude the public, in line with the relevant access to information and human rights legislation.

After considering the written and verbal presentations, the Standards Committee will reach and announce its findings of fact, whether or not you have failed to follow the Code of Conduct or a Local Code and whether or not a sanction should be set. As well as announcing its decision at the hearing and providing a short written decision on the day of the hearing, the Standards Committee will give you its full written decision within 10 working days of the end of the hearing.

Breaches of the Authority's Code of Conduct

If the Standards Committee decides that you have failed to follow the Code of Conduct and that you should be penalised, it may do any one or a combination of the following:

- censure you. This is the only form of sanction available when dealing with a person who is no longer a member of the Authority;
- restrict your access to the premises or resources of the Authority for up to three months (provided that the restrictions are reasonable and proportionate to the breach, and do not unduly restrict your ability to perform your functions as a Member);
- suspend or partly suspend you for up to three months;

Standards Committee Procedure Rules

- require you to submit a written apology in a form specified by the Standards Committee;
- require you to undertake specified training;
- require you to undertake specified conciliation;
- suspend or partly suspend you for up to three months on the condition that the suspension or partial suspension will end if you apologise in writing, receive any training or take part in any conciliation that the Standards Committee orders you to. Conciliation involves an independent person helping the relevant people try to reach an agreement on the matter set out by the Standards Committee.

Sanctions may start immediately or up to six months after the hearing, if the Standards Committee wishes.

The Standards Committee will also arrange to publish a summary of its findings, reasons for its findings and any sanction set in one or more newspapers that are independent of the authorities concerned and circulating in the area of those authorities. If the Standards Committee finds that you have not broken the Code, you can ask the Standards Committee not to have this information published.

You have the right to apply in writing to the President of The Adjudication Panel for England for permission to appeal against that finding.

Breaches of a Local Code

If the Standards Committee decides that you have failed to follow a Local Code, and that you should be penalised, it may do any one or a combination of the following:

- offer advice;
- censure you;
- restrict your access to resources of the Authority; and/or
- recommend to the Council that you are removed from a Committee.

Leeds City Council

Procedure for dealing with complaints of misconduct against Members of the Council - Annex B

Member's name:

FORM 1

Member's response to the evidence set out in the report

Please enter the number of any paragraph where you disagree with the findings of fact in the report, and give your reasons and your suggested alternative. **The Committee will not allow you to raise new disagreements over findings of fact in the report at the hearing unless there are good reasons for doing so.**

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

Please attach separate sheets if necessary.

Signed (Member)
Signed (Representative¹)

Date
Date

¹ If you have a representative.

**Leeds City Council
Procedure for dealing with complaints of misconduct against Members – Annex B**

Member's name:

FORM 2

Other evidence relevant to the Complaint

Please set out below, using the numbered paragraphs, any other evidence you feel is relevant to the Complaint made about you.

Paragraph number	Details of the evidence
1	
2	
3	
4	
5	

Please attach separate sheets if necessary.

Signed (Member) **Date**
Signed (Representative¹) **Date**

¹ If you have a representative.

**Leeds City Council
Procedure for dealing with complaints of misconduct against Members – Annex B**

Member's name:

FORM 3

Representations to be taken into account if you are found to have failed to follow the Code of Conduct / a Local Code¹

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 / a Local Code².

Please note that no such finding has yet been made.

Paragraph number	Factors for the Standards Committee to take into account when deciding whether or not to order any censure, restriction of resources or allowances, suspension or partial suspension, <i>apology, training, or conciliation</i> ³
1	
2	
3	
4	
5	

Please attach separate sheets if necessary.

Signed (Member) **Date**
.....

Signed (Representative⁴) **Date**
.....

¹ Committee Clerk to delete as applicable.

² As above

³ As above

⁴ If you have a representative.

**Leeds City Council
 Procedure for dealing with complaints of misconduct against Members – Annex B**

Member's name:

FORM 4

Arrangements for the Standards Committee hearing

Please tick the relevant boxes.

<p>1</p>	<p>The proposed date for the Standards Committee hearing is given in the letter sent to you with this form. Are you planning to go to the hearing?</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 his or her 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>Qualifications:</p>
<p>5</p>	<p>Does your representative have any connection with the case?</p> <p>If "Yes", please give details.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Details:</p>

Please attach separate sheets if necessary.

Leeds City Council

FORM 4 (continued)

Arrangements for the Standards Committee hearing

Please tick the relevant boxes.

6	Do you want to call any witnesses? If "Yes", please fill in Form 5.	Yes <input type="checkbox"/> No <input type="checkbox"/>	
7	Do you, your representative or your witnesses have any access difficulties (for example, is wheelchair access needed)? If "Yes", please give details.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Details:
8	Do you, your representative or witnesses have any special needs (for example, is an interpreter needed)? If "Yes", please give details.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Details:
9	Do you want any part(s) of the hearing to be held in private? If "Yes", please <ul style="list-style-type: none"> • identify which part(s); and • give reasons. 	Yes <input type="checkbox"/> No <input type="checkbox"/>	Part(s) you wish to be held in private: Reasons:
10	Do you want any part(s) of the relevant documents to be withheld from public inspection? If "Yes", please <ul style="list-style-type: none"> • identify which documents • identify which part(s) of these documents; and • give reasons. 	Yes <input type="checkbox"/> No <input type="checkbox"/>	Documents: Part(s) of the documents you wish to be withheld from public inspection: Reasons:

Standards Committee Procedure Rules

Please attach separate sheets if necessary.

Signed.....(Member)

Date.....

Signed.....(Representative¹)

Date.....

¹ If you are represented

Leeds City Council

FORM 5(continued)

Details of witnesses you want to ask to attend the hearing:

<p>WITNESS 2</p> <p>(a) Will the witness give evidence about the Complaint? If "Yes", please provide an outline of the evidence the witness will give.</p> <p>(b) Will the witness give evidence about what action the Standards Committee should take if it finds that the Code of Conduct / a Local Code² has not been followed? 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>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p> <p>Outline of evidence:</p>
<p>WITNESS 3</p> <p>(a) Will the witness give evidence about the Complaint? If "Yes", please provide an outline of the evidence the witness will give.</p> <p>(b) Will the witness give evidence about what action the Standards Committee should take if it finds that the Code of Conduct / a Local Code³ has not been followed? 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>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p> <p>Outline of evidence:</p>

² Committee Clerk to delete as applicable

³ As above

Please attach separate sheets if necessary.

Signed(Member) **Date**.....

Signed.....(Representative⁴)**Date**.....

⁴ If you are represented

**Leeds City Council
 Procedure for dealing with complaints of misconduct against Members – Annex C**

Member's name:
Case Number¹:

FORM 6:

Arrangements for the Standards Committee hearing

Please tick the relevant boxes.

1	The proposed date for the Standards Committee hearing is given in the letter sent to you with this form. Are you planning to go to the hearing? If "No", please explain why.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Reason:
2	Are you going to present your own case?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
3	If you are not presenting your own case, will a representative present it for you? If "Yes", please state the name of your representative.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Name:
4	Do you want to call any witnesses? If "Yes", please fill in Form 7.	Yes <input type="checkbox"/> No <input type="checkbox"/>	

¹ Referred Complaints only

Leeds City Council

FORM 6 (continued)

Arrangements for the Standards Committee hearing

Please tick the relevant boxes.

5	Do you, your representative or your witnesses have any access difficulties (for example, is wheelchair access needed)? If "Yes", please give details.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Details:
6	Do you, your representative or witnesses have any special needs (for example, is an interpreter needed)? If "Yes", please give details.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Details:
7	Do you want any part(s) of the hearing to be held in private? If "Yes", please <ul style="list-style-type: none"> • identify which part(s); and • give reasons. 	Yes <input type="checkbox"/> No <input type="checkbox"/>	Part(s) you wish to be held in private: Reasons:
8	Do you want any part(s) of the relevant documents to be withheld from public inspection? If "Yes", please <ul style="list-style-type: none"> • identify which documents • identify which part(s) of these documents; and • give reasons. 	Yes <input type="checkbox"/> No <input type="checkbox"/>	Documents: Part(s) of the documents you wish to be withheld from public inspection: Reasons:

Please attach separate sheets if necessary.

Signed.....

Date.....

**Leeds City Council
 Procedure for dealing with complaints of misconduct – Annex C**

Member's Name:

Case Number¹:

FORM 7

Details of witnesses you want to ask to attend the hearing

<p>Name of witness or witnesses</p>	<p>1</p> <p>.....</p> <p>.....</p> <p>2</p> <p>.....</p> <p>.....</p> <p>3</p> <p>.....</p> <p>.....</p>	
<p>WITNESS 1</p> <p>(a) Will the witness give evidence about the Complaint? If "Yes", please provide an outline of the evidence the witness will give.</p> <p>(b) Will the witness give evidence about what action the Standards Committee should take if it finds that the Code of Conduct / a Local Code² has not been followed? 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>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p> <p>Outline of evidence:</p>

¹ Referred Complaints only
² Committee Clerk to delete as applicable

Leeds City Council

FORM 7 (continued)

Details of witnesses you want to ask to attend the hearing:

<p>WITNESS 2</p> <p>(a) Will the witness give evidence about the Complaint? If "Yes", please provide an outline of the evidence the witness will give.</p> <p>(b) Will the witness give evidence about what action the Standards Committee should take if it finds that the Code of Conduct / a Local Code³ has not been followed? 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>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p> <p>Outline of evidence:</p>
<p>WITNESS 3</p> <p>(a) Will the witness give evidence about the Complaint? If "Yes", please provide an outline of the evidence the witness will give.</p> <p>(b) Will the witness give evidence about what action the Standards Committee should take if it finds that the Code of Conduct / a Local Code⁴ has not been followed? 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>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Outline of evidence:</p> <p>Outline of evidence:</p>

Please attach separate sheets if necessary.

Signed

Date.....

³ Committee Clerk to delete as applicable

⁴ Committee Clerk to delete as applicable

Leeds City Council

Procedure for dealing with complaints against Members – Annex D

Checklist for the pre-hearing process summary

The pre-hearing process summary should include:

- the name of the Authority;
- the name of the Member;
- the name of the Complainant (unless the identity is being withheld in accordance with the Authority's Whistle Blowing Policy).
- case reference numbers of the principal Authority and the Standards Board for England¹;
- the name of the Chair;
- the name of the Monitoring Officer;
- the name of the Investigator²;
- the name of the Committee Clerk;
- the date the pre-hearing process summary was produced;
- the date, time and place of the hearing;
- a summary of the Complaint;
- the relevant section or sections of the Code of Conduct / Local Code³;
- the findings of fact in the report that are agreed;
- the findings of fact in the report that are not agreed;
- whether or not the Member or the Investigator will attend or be represented;
- the names of any witnesses who will be asked to give evidence; and
- an outline of the proposed procedure for the hearing.

¹ For Referred Complaints

² For Referred Complaints for Determination this is the name of the ESO who referred the Complaint. For Referred Complaints for Investigation, this is the name of the Monitoring Officer or nominee.

³ As applicable

THE USE OF RECORDING EQUIPMENT IN HEARINGS BY COMMITTEE – ANNEX E

1.0 INTRODUCTION

- 1.1 This guidance note details the arrangements for the use of recording equipment during hearings by the Committee and the retention of the resulting tapes.

2.0 BACKGROUND

- 2.1 The Standards Committee Procedure Rules provide that all hearings shall be recorded in full by tape recording.
- 2.2 This guidance note indicates the procedures to be followed in recording hearings by the Committee, and sets out the controls on access to taped evidence.

3.0 RECORDING OF HEARINGS

- 3.1 The primary purpose of taping hearings by the Committee is to obtain a verbatim record of proceedings in order to ensure accurate information can be provided in the event of an appeal. This is important as it is possible that evidence could be heard over a number of separate sessions.
- 3.2 In addition the recording may be used by the Committee to support their determination of a complaint by enabling them to rehear any part of the hearing in the event of uncertainty in relation to any part of the evidence.
- 3.3 It will be normal practice for hearings by the Committee to be taped as a matter of course. However the Committee retain discretion over the taping of business and the Committee may decide that taping is not required for all or part of the meeting, in accordance with Rule 9.1 of the Procedure Rules.
- 3.4 The Agenda for the hearing will indicate that the proceedings may be taped.
- 3.5 It will be the duty of the Chair to inform all parties involved that the hearing is being tape recorded.
- 3.6 It is the responsibility of the Governance Services Unit to provide appropriate equipment and organise the taping of hearings.

4.0 ACCESS TO TAPES

- 4.1 Since the purpose of taping the hearing is to provide a verbatim record of the hearing and to support the process of the Committee's determination, access to the tapes will be controlled by the Monitoring Officer⁵².
- 4.2 Tapes will be kept by the Monitoring Officer for 2 months from the date of the hearing and will then be erased, except in the event of an appeal in which case the tapes will be retained until the final outcome of the case is known.

⁵² Access will be provided where required in accordance with the Data Protection Act 1998, or where necessary in relation to an appeal to the Adjudication Panel.

Leeds City Council

Procedure for dealing with complaints of misconduct – Annex F

Categories of exempt information under Schedule 12A of the Local Government Act 1972 (as modified in relation to local determinations by Standards Committees)

- 1 Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, the Authority.
- 2 Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder appointed by:
 - (a) a magistrates' court committee;
 - (b) a probation committee within the meaning of the Probation Service Act 1993; or
 - (c) a local probation board within the meaning of the Criminal Justice and Court Services Act 2000.
- 2A Information relating to a particular chief officer, former chief officer or applicant to become a chief officer of a local probation board within the meaning of the Criminal Justice and Court Services Act 2000.
- 3 Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the Authority.
- 4 Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the Authority.
- 5 Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the Authority.
- 6 Information relating to the adoption, care, fostering or education of any particular child.
- 7 Information relating to the financial or business affairs of any particular person (other than the Authority).
- 8 The amount of any expenditure proposed to be incurred by the Authority under any particular contract for the acquisition of property or the supply of goods or services.
- 9 Any terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.
- 10 The identity of the Authority (as well as of any other person, by virtue of paragraph 7 above) as the person offering any particular tender for a contract for the supply of goods or services.

Leeds City Council

Annex F (Continued)

Categories of exempt information under Schedule 12A of the Local Government Act 1972 (as modified in relation to local determinations by Standards Committees)

- 11 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the Authority or a Minister of the Crown and employees of, or office-holders under, the Authority.
- 12 Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with:
 - (a) any legal proceedings by or against the Authority; or
 - (b) the determination of any matter, affecting the Authority.Whether in either case, proceedings have been commenced or are in contemplation.
- 13 Information which, if disclosed to the public, would reveal that the Authority proposes:
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.
- 14 Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- 15 The identity of a protected informant.
- 16 Information relating to the personal circumstances of any person.
- 17 Information which is subject to any obligation of confidentiality.
- 18 Information which relates in any way to matters concerning national security.
- 19 The deliberations of a Standards Committee or a sub-committee of a Standards Committee established under the provisions of Part III of the *Local Government Act 2000* in reaching any finding on a matter referred under the provisions of Section 60(2) or (3) and Section 64(2) of the *Local Government Act 2000*.

This is an extract from the *Local Government Act 1972* (as modified in relation to local determination by Standards Committees).

Leeds City Council

Procedure for dealing with complaints of misconduct against Members – Annex G

Excluding the public from hearings – Guidance

The Standards Board for England recommends that hearings should be held in public where possible to make sure that the hearing process is open and fair. However, there may be some circumstances where parts of the hearing should be held in private.

- 1 At the hearing, the Committee will consider whether or not the public should be excluded from any part of the hearing, in line with Part VA of the *Local Government Act 1972* (as modified in relation to local determinations by Standards Committees). If the Committee considers that "confidential information" is likely to be revealed during the hearing, the committee must exclude the public by law. "Confidential information" is defined for these purposes to mean information that has been provided by a Government department under the condition that it must not be revealed, and information that the law or a court order says cannot be revealed.
- 2 The Committee also has the power to exclude the public if it considers that "exempt information" is likely to be revealed during the hearing. The categories of "exempt information" are listed in Annex E. The Committee should act in line with Article 6 of the *European Convention on Human Rights*, which gives people the right to a fair trial and public hearing by an independent and unbiased tribunal. The Committee also has a duty to act fairly and in line with the rules of natural justice.
- 3 Article 6 says that the public **may** be excluded from all or part of the hearing if it is in the interests of:
 - (a) morals;
 - (b) public order;
 - (c) justice;
 - (d) national security in a democratic society; or
 - (e) protecting young people under 18 and the private lives of anyone involved.
- 4 There should be a public hearing unless the Committee decides that there is good reason, which falls within one of the five categories above (3a to e), for the public to be excluded.
- 5 The Committee must also act in line with Article 10 of the *European Convention on Human Rights*, which sets out the right for people to "receive and impart information and ideas without interference by public authority". Any restrictions on this right must be "prescribed by law and ... necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary".

Leeds City Council

Annex G (Continued)

Excluding the public from hearings – Guidance

6 The Committee must act in line with Article 8 of the *European Convention on Human Rights*. Article 8 says that everyone has the right to respect for their private and family life, home and correspondence. It says that no public authority (such as the Committee) may interfere with this right unless it is:

- (a) in line with the law; and
- (b) necessary in a democratic society in the interests of:
 - (i) national security;
 - (ii) public safety;
 - (iii) the economic wellbeing of the country;
 - (iv) preventing crime or disorder;
 - (v) protecting people's health and morals (which would include protecting standards of behaviour in public life); or
 - (vi) protecting people's rights and freedoms.

There is clear public interest in promoting the probity (integrity and honesty) of public authorities and public confidence in them. For these reasons, the hearing should be held in public unless the Committee decides that protecting the privacy of anyone involved is more important than the need for a public hearing.

7 Conflicting rights often have to be balanced against each other.

8 In relation to rights under both Articles 8 and 10 of the *European Convention on Human Rights*, it should be remembered that any interference with or restriction of those rights must be "necessary in a democratic society". A measure will only be "necessary" if it meets "a pressing social need", and any restriction on people's rights must be "proportionate".

9 The Standards Board for England recommends that a Standards Committee should exclude the public when considering its decisions. The Board considers that this will not conflict with the rights under the *European Convention on Human Rights* or the duty to act fairly.

LEEDS CITY AUTHORITY

Procedure for dealing with complaints of misconduct – Annex H

SANCTIONS

Referred Complaints

If the Committee finds that the Member has failed to follow the Code of Conduct and that he or she should be penalised, it may do any one or a combination of the following:

- offer advice;
- censure the Member. This is the only form of sanction available when dealing with a person who is no longer a member of the Authority;
- restrict the Member's access to the premises or resources of the relevant Authority for up to three months, provided that the restrictions are reasonable and proportionate to the breach, and do not unduly restrict the Member's ability to perform his or her duties as a Member.
- suspend or partly suspend the Member for up to three months;
- require the Member to submit a written apology in a specified form;
- require the Member to undertake specified training;
- require the Member to undertake specified conciliation;
- suspend or partly suspend the Member for up to three months on the condition that the suspension or partial suspension will end if the Member apologises in writing, receives any training, or takes part in any conciliation that the Committee orders them to. Conciliation involves an independent person helping the relevant people try to reach an agreement on the matter set out by the Committee.

Suspension or partial suspension will normally start immediately after the Committee has made its decision. However, if the Committee chooses, the sanction may start at any time up to six months following its decision. This may be appropriate if the sanction would otherwise have little effect on the Member, for example, in the case of a suspension or partial suspension, if there are no full Council or committee meetings which the Member would normally go to in the period following the conclusion of the hearing.

Local Complaints

If the Committee decides that the Member has failed to follow a Local Code, and that he or she should be penalised, it may do any one or a combination of the following:

- offer advice;
- censure the Member;
- recommend to the Authority that the Member is removed from particular responsibilities e.g. a particular Committee; or
- restrict access to resources of the Authority.

Deciding a sanction

When deciding a sanction, the Committee should make sure that it is reasonable and in proportion to the Member's behaviour. Before deciding what sanction to set, the Committee should consider the following questions, along with any other relevant circumstances.

- What was the Member's intention? Did the Member know that he or she was failing to follow the Code?
- Did the Member get advice from officers before the incident? Was that advice acted on in good faith?
- Has there been a breach of trust?
- Has there been financial impropriety (for example, improper expense claims or procedural irregularities)?
- What was the result of failing to follow the Code?
- How serious was the incident?
- Does the Member accept he or she was at fault?
- Did the Member apologise to the relevant people?
- Has the Member previously been warned or reprimanded for similar misconduct?
- Has the Member failed to follow the Code before?
- Is the Member likely to do the same thing again?

So, for example, if a Member has repeatedly or blatantly misused the Authority's information technology resources, the Committee may consider withdrawing those resources from the Member.

Suspension may be appropriate for more serious cases, such as those involving:

- bullying officers;
- trying to gain an advantage or disadvantage for themselves or others; or
- dishonesty or breaches of trust.

Sanctions involving restricting access to an Authority's premises or equipment should not unnecessarily restrict a Member's ability to carry out his or her responsibilities as an elected representative or co-opted member.

There may be other factors, specific to the local environment, that the Committee may also consider relevant when deciding what sanction to set.

Any conciliation process should have an agreed timeframe for resolution. The process may be of an informal or formal nature, involving elements of training and mediation that will lead to an effective and fair conclusion of the matter. Any decisions reached during the process regarding future behaviour of the Member and measures to prevent a repetition of the circumstances that gave rise to the initial allegation, should be agreed by all parties.

When deciding on an appropriate sanction, the Committee may want to consider decisions made by other Standards Committees and case tribunals drawn from The Adjudication Panel for England that deal with similar types of cases.

LEEDS CITY COUNCIL

Procedure for dealing with complaints of misconduct against Members – Annex I

FULL WRITTEN DECISIONS

For consistency and thoroughness, the Committee will use the following format for its full written decision:

The front cover of the Committee's full written decision will include:

- the name of the Authority;
- the name of the Member;
- the name of the Complainant (unless there are good reasons for keeping his or her identity confidential);
- case reference numbers of the principal authority and The Standards Board of England;
- the name of the Committee Member who chaired the hearing;
- the names of the Committee Members who took part in the hearing;
- the name of the Monitoring Officer;
- the name of the Investigator¹;
- the name of the Legal Advisor and Committee Clerk;
- the date of the hearing; and
- the date of the report.

The Committee's full written decision will include:

- a summary of the Complaint;
- the relevant section or sections of the Code of Conduct / Local Code
- a summary of the evidence considered and representations made;
- the findings of fact, including the reasons for them;
- the finding as to whether or not the Member failed to follow the Code of Conduct / Local Code, including the reasons for that finding;
- the penalties applied, if any, including the reasons for any penalties; and
- the right of appeal, including details of the postal and web site address for the Adjudication Panel. The appeal form produced by the Adjudication Panel (annex J to this procedure) will be attached to the decision.

¹ In respect of Referred Complaints *for* Determination, this will be the name of the ESO who referred the matter to the Monitoring Officer. In respect of Referred Complaints for Investigation, this will be the name of the Monitoring Officer or nominee.

LEEDS CITY COUNCIL

Procedure for dealing with complaints of misconduct against Members – Annex J

Application for permission to appeal

1	Your Name and Address	
2	Local Authority or other body of which you are a Member	
3	Date of Standards Committee Decision against which you seek to appeal <i>(The decision itself should be attached to this form)</i>	
4	Do you dispute that you failed to comply with the provisions of the Code of Conduct as determined by the Standards Committee	YES/NO <i>(if yes, please give your reasons)</i>
5	Do you wish to appeal against the sanction imposed by Standards Committee?	YES/NO <i>(if yes, please give your reasons)</i>

6	If permission to appeal is granted do you agree to the Appeal being determined by way of written representations?	YES/NO
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Your signature

Print Name

Date

President's Decision:

Permission	Granted/Denied
Reason if permission refused:	

Signed

Date