

3.0 **RECEIPT AND CONSIDERATION OF FINAL INVESTIGATION REPORTS**

3.1 **PROCEDURE FOR THE CONSIDERATION SUB-COMMITTEE MEETING**

- 3.1.1 When considering a Final Report referred to it by the Monitoring Officer⁴⁴, the Consideration Sub-Committee will only consider the information contained in the Final Report, and will not interview witnesses, or take representations from the parties. However the Consideration Sub-Committee may invite the investigator to the meeting in order to present their findings and answer any questions regarding their final report.
- 3.1.2 The Consideration Sub-Committee may also make recommendations to the relevant authority on matters arising from the Final Report.
- 3.1.3 When the Consideration Sub-Committee meets to consider a final report these meetings are normal meetings and the normal rules relating to notice and publicity apply. The Consideration Sub-Committee shall therefore consider whether to exclude the public from any part of the meeting and which parts of the agenda are not to be made available for public inspection⁴⁵.

3.2 **COMPLAINTS INVESTIGATED BY OR ON BEHALF OF THE MONITORING OFFICER**

- 3.2.1 The Consideration Sub-Committee will consider all Final Reports that have been investigated by the Monitoring Officer or their nominee.
- 3.2.2 The Consideration Sub-Committee will convene to consider the Final Report and decide:
- a) If the report contains a finding of no failure whether:
 - It accepts the Monitoring Officer/Investigators finding of no failure (a “finding of acceptance”); or
 - The matter should be referred for a hearing; and
 - b) If the matter is to be referred for a hearing whether:
 - The matter should be referred to the Hearings Sub-Committee for determination; or
 - The matter should be referred to the First-Tier Tribunal (Local Government Standards in England) for determination.
- 3.2.3 As soon as reasonably practicable after making a “finding of acceptance”, the Consideration Sub-Committee shall give written notice of the finding to:
- the subject Member;
 - any ESO concerned⁴⁶;
 - the Investigator;
 - any Parish Council concerned⁴⁷; and

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⁴⁴ In accordance with Regulations 14, 15 and 17 Standards Committee (England) Regulations 2008.

⁴⁵ Regulation 8(6) Standards Committee (England) Regulations 2008. This consideration should take into account the guidance from Standards for England in their document “Standards Committee Determinations”.

⁴⁶ Code of Conduct Complaint only when an ESO has been involved

⁴⁷ Code of Conduct Complaint only

- the complainant⁴⁸

3.2.4 After making a “finding of acceptance” the Consideration Sub-Committee shall also, as soon as reasonably practicable, arrange for a notice to be published stating that the Consideration Sub-Committee have found that there has not been a failure on the part of the subject Member to comply with the Code of Conduct. This notice shall not be published if the subject Member requests that it is not published.

3.2.5 This notice must be published in at least one newspaper circulating in the area of any authority concerned, and, if considered appropriate by the Consideration Sub-Committee, on the website of any authority concerned and in any other publication. The Consideration Sub-Committee will decide whether it is appropriate to publish such a notice on the Council’s website, or in any other publication, on a case by case basis at the conclusion of the Consideration Sub-Committee meeting.

3.2.6 The Consideration Sub-Committee may only decide to refer the matter to the First-Tier Tribunal for determination if:

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- it has determined that the action it could take against the subject Member would be insufficient were a finding of failure to be made; and
- the Principal Judge (or his Deputy) of the First-Tier Tribunal (Local Government Standards in England) has agreed to accept the referral.

3.3 COMPLAINTS INVESTIGATED BY AN ETHICAL STANDARDS OFFICER (ESO)

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3.3.1 When a matter is referred to the ESO for investigation the ESO will make one of the following findings in relation to their investigation:

- That there has been no failure to comply with the Code of Conduct of the relevant authority concerned⁴⁹;
- That there has been such a failure to comply but no action needs to be taken⁵⁰;
- That the matters which are the subject of the investigation should be referred to the Monitoring Officer of the relevant authority concerned⁵¹; or
- That the matters which are the subject of the investigation should be referred to the Principal Judge of the First-Tier Tribunal (Local Government Standards in England) for adjudication by a case tribunal⁵².

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3.3.2 Where the ESO makes a finding that the matters should be referred to the Monitoring Officer, the ESO will produce a report on the outcome of the investigation and send this report to the Monitoring Officer and the Standards Committee of the relevant authority.

⁴⁸ 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.

⁴⁹ In accordance with Section 59(4)(a) of the Local Government Act 2000.

⁵⁰ In accordance with Section 59(4)(b) of the Local Government Act 2000.

⁵¹ In accordance with Section 59(4)(c) of the Local Government Act 2000.

⁵² In accordance with Section 59(4)(d) of the Local Government Act 2000.

3.3.3 The Monitoring Officer will send a copy of the ESO's report to the subject Member. After the subject Member has received the report, the Monitoring Officer will refer this report to the Consideration Sub-Committee for it to decide whether:

- The matter should be referred to the Hearings Sub-Committee for determination; or
- The matter should be referred to the First-Tier Tribunal (Local Government Standards in England) for determination.⁵³

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3.3.4 The Consideration Sub-Committee may only decide to refer the matter to the First-Tier Tribunal for determination if:

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- it has determined that the action it could take against the subject Member would be insufficient were a finding of failure to be made; and
- the Principal Judge (or his Deputy) of the First-Tier Tribunal (Local Government Standards in England) has agreed to accept the referral.

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3.3.5 Where the ESO makes a finding that there has been no failure to comply with the code of conduct, or where there has been such a failure but no action needs to be taken, the ESO:

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- May produce a report on the outcome of their investigation (where the ESO does not produce any such report, he must inform the Monitoring Officer of the outcome of the investigation);
- Must send a copy of any such report to the Monitoring Officer; and
- May provide a summary of any such report to any newspapers circulating in the area of the relevant authority.

3.3.6 Such a report would not be considered by the Consideration Sub-Committee, but may be referred to a meeting of the full Standards Committee by the ESO if he believes it will assist the Committee in the discharge of its functions as prescribed in Part III of the Local Government Act 2000.⁵⁴

⁵³ In accordance with Regulations 15 and 17 Standards Committee (England) Regulations 2008.

⁵⁴ Section 3A of the Local Government Act 2000.

4.0 HEARINGS SUB-COMMITTEE PROCEDURE

4.1 PURPOSE OF THE PRE-HEARING PROCESS

4.1.1 The pre-hearing process will only deal with procedural issues. It will normally be dealt with by the Monitoring Officer, in consultation with the Chair of the Hearings Sub-Committee, and carried out in writing, although the Chair has discretion to convene a pre-hearing meeting of the Hearings Sub-Committee, which may be attended by the Parties, where the Chair considers this is necessary.

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

- identify whether the subject Member disagrees with any of the findings of fact in the investigation report;
- decide whether or not those disagreements are likely to be relevant to any matter the hearing needs to decide;
- decide whether to hear evidence about those disagreements during the hearing;
- decide whether there are any parts of the hearing that should be held in private; and
- decide whether or not any parts of the investigation report or other documents should be withheld from the public prior to the hearing on the grounds that they contain 'exempt' material.

4.2 STARTING THE PRE-HEARING PROCESS

4.2.1 The Committee Clerk will commence the pre-hearing process once the Consideration Sub-Committee has made a decision to refer a complaint to the Hearings Sub-Committee for a hearing.

4.2.2 The Committee Clerk will contact the Chair of the Standards Committee following the decision of the Consideration Sub-Committee to establish who will act as the Chair to the Hearings Sub-Committee. This will normally be the Chair of the Standards Committee⁵⁵, unless he or she is prevented from taking part for some reason, in which case it will be the Chair's nominee, chosen from one of the other Independent Members appointed to the Standards Committee.

4.2.3 After consultation with the Chair of the Hearings Sub-Committee and within 3 days of the decision of the Consideration Sub-Committee the Committee Clerk will:-

- propose a date for the hearing (this must be within 3 months of the date on which the Investigator completed the report or from the date the Monitoring Officer received the report from the ESO, and at least 14 days⁵⁶ after the date on which the Monitoring Officer sent the subject Member a copy of the report, unless the subject Member agrees to an earlier date);

⁵⁵ As stated in Article 9 of the Constitution.

⁵⁶ These are not working days.

- provide a copy of this Hearings Sub-Committee Procedure to the subject Member;
- send the subject Member an outline of their rights during the hearings process (Appendix C to the Standards Committee Procedure Rules); and
- invite the subject Member to respond in writing ~~within X days~~ to the questions set out in the Member's Information Form, in order to find out whether the subject Member:
 - wants to be represented at the hearing by a solicitor, barrister or any other person;
 - disagrees with any of the findings of fact in the report, including the reasons for any disagreements;
 - wants to give evidence to the Hearings Sub-Committee, either verbally or in writing;
 - wants to call relevant witnesses to give evidence to the Hearings Sub-Committee (if so, the subject Member should provide outlines or statements of the evidence that their witnesses intend to give);
 - wishes to make representations about any sanctions to be imposed if the Hearings Sub-Committee decide that they have breached the Code of Conduct;
 - can come to the hearing on the proposed date⁵⁸;
 - wants any part of the hearing to be held in private; and
 - wants any part of the investigation report or other relevant documents to be withheld from the public.

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4.2.4 If the subject Member does not respond within the time set the Committee Clerk will send the subject Member a reminder giving a further ~~X~~ days in which to respond.

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4.2.5 If the subject Member fails to respond following the reminder it will be assumed that the subject Member:

- agrees with the findings of fact in the report;
- does not wish to make representations about any sanctions to be imposed if the Hearings Sub-Committee decide that the subject Member has breached the Code of Conduct;
- does not want to be represented at the hearing by a solicitor, barrister or any other person;
- does not want to give evidence to the Hearings Sub-Committee, either verbally or in writing;
- is content for the hearing to be fixed on any of the proposed dates whether or not the subject Member can attend;
- does not want any part of the hearing to be held in private; and
- does not want any part of the report or other relevant documents to be withheld from the public.

⁵⁸ Where ever possible, given the availability of Members of the Standards Committee and the availability of suitable accommodation the Member will be given a choice of dates. These dates will be proposed by the Chair in consultation with the Committee Clerk.

Standards Committee Procedure Rules

4.2.6 Within 3 days of receiving the subject Member's response the Committee Clerk will send the subject Member's response to the Investigator for comment, and will request that the Investigator responds to the questions set out in the Investigator's Information Form within X days. These questions relate to whether the Investigator:

- wants to be represented at the hearing;
- wants to call relevant witnesses to give evidence to the Hearings Sub-Committee (If so, the Investigator should provide outlines or statements of the evidence their witnesses intend to give);
- wants any part of the hearing to be held in private; and
- wants any part of the investigation report or other relevant documents to be withheld from the public.

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4.2.7 After the set time periods have expired (or after the Committee Clerk has received responses from both Parties if this is earlier), the Monitoring Officer will review the information received, and, after consultation with the Chair of the Hearings Sub-Committee, will set the date, time and place of the hearing.

4.2.8 In consultation with the Chair of the Hearings Sub-Committee the Monitoring Officer may also decide any issues which will help the Hearings Sub-Committee to determine the complaint. Such matters include:

- Identifying whether the subject Member disagrees with any of the findings of fact in the investigation report;
- Identifying whether those disagreements are likely to be relevant to any matter the hearing needs to decide;
- Identifying whether evidence about those disagreements will need to be heard during the hearing;
- Deciding whether there are any parts of the hearing that are likely to be held in private; and
- Deciding whether any parts of the investigation report or other documents should be withheld from the public prior to the hearing, on the grounds that they contain 'exempt' information.

4.2.9 In accordance with the decision of the Standards Committee⁶⁰, where issues arise during the pre-hearing process which relate to decisions which are reserved to the Hearings Sub-Committee⁶¹, the Monitoring Officer will, in consultation with the Chair of the Hearings Sub-Committee, make preliminary decisions⁶² on those matters, as follows:-

- whether the Hearings Sub-Committee consents to the subject Member being represented by a non-legally qualified representative;

⁶⁰ Minute 12 of the Standards Committee meeting held on 8th July 2009.

⁶¹ As set out in Regulation 18(1) to (6) Standards Committee (England) Regulations 2008.

⁶² These preliminary decisions will be presented to the Hearings Sub-Committee as recommendations at the commencement of the hearing for the Sub-Committee to make a formal decision. According to Article 12 of the Constitution the Monitoring Officer has a responsibility to provide support to the Standards Committee and its Sub-Committees.

- whether witnesses will be heard at the hearing;
- whether the Hearings Sub-Committee wishes to call any witnesses to attend who may help the Hearings Sub-Committee to determine the complaint;⁶³
- whether the Hearings Sub-Committee is likely to refuse to hear evidence from any of the witnesses notified by either Party, and the reasons for this;
- whether to send 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.

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4.2.10 The subject Member will be advised of the Monitoring Officer's preliminary decision and the reasons for it prior to the meeting of the Hearings Sub-Committee.

4.2.11 The Hearings Sub-Committee will then be invited to formally consider these preliminary decisions at the beginning of the Hearing itself. The Hearings Sub-Committee is entitled to reject the Monitoring Officer's preliminary decision if they see fit.

4.2.12 Alternatively the Chair of the Hearings Sub-Committee has the discretion to convene a pre-hearing meeting of the Hearings Sub-Committee to decide such matters, which may be attended by the Parties, where the Chair considers this is necessary.

4.3 THE PRE-HEARING PROCESS SUMMARY

4.3.1 The Monitoring Officer, in consultation with the Chair of the Hearings Sub-Committee will then prepare a pre-hearing process summary. The summary will contain the following information:

- The name of the relevant authority;
- The name of the subject Member;
- The name of the complainant (unless this has been withheld for whatever reason);
- The case reference numbers;
- The name of the Chair of the Hearings Sub-Committee;
- The name of the Monitoring Officer;
- The name of the investigator;
- The name of the Committee Clerk;
- The date the pre-hearing process was produced;
- The date, time and place of the hearing;
- A summary of the complaint;
- The relevant sections of the Code of Conduct;
- The findings of fact in the report that are agreed;
- The findings of fact in the report that are not agreed, a view on whether these disagreements are likely to be relevant to any matter the hearing needs to decide, and the evidence about those disagreements that will need to be heard during the hearing;

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⁶³ This may include the Complainant. The Committee cannot however order witnesses to appear or give evidence.

⁶⁵ This is subject to the Committee complying with the requirement that the hearing takes place within three months of the date when the Investigator issued the final report or when the Monitoring Officer received the report from the ESO.

- Whether or not the subject Member or the Investigator will attend or be represented (which may include a preliminary decision made by the Monitoring Officer on whether the Hearings Sub-Committee consents to the subject Member being represented by a non legally qualified representative);
- The names of any witnesses who will be asked to give evidence, including any preliminary decisions made by the Monitoring Officer on which witnesses the Hearings Sub-Committee will hear from, and whether the Hearings Sub-Committee is likely to refuse to hear evidence from any of the witnesses notified by either party and the reasons for this;
- An outline of the proposed procedure for the hearing, including whether any parts of the hearing are likely to be held in private, and whether any of the investigation report or other documents will be withheld from the public prior to the hearing, on the grounds that they contain 'exempt' information; and
- Details of whether the Monitoring Officer has made a preliminary decision to request that either party provides, by a set date, such details, supplementary statement or access to documents as may be reasonably required for the determination of the complaint.

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4.3.2 The summary will be sent to everyone involved in the hearing (including the Parties, and the Members of the Hearings Sub-Committee) at least 10 days before the proposed date of the hearing.

4.3.3 It is the responsibility of the subject Member and the investigator to make their own arrangements to ensure that their witnesses (and witnesses they would like to question) will attend the Hearings Sub-Committee meeting.

4.3.4 Requests for adjournment (by either party) which are made after the pre-hearing process summary has been issued, but more than five working days before the Hearings Sub-Committee meeting itself, will be decided by the Monitoring Officer in consultation with the Chair of the Hearings Sub-Committee. The party requesting the adjournment must provide written reasons why an adjournment is necessary, and the other party must provide a written response to this request. The Monitoring Officer will then decide whether to amend the date of the hearing based on these written representations. Should the Monitoring Officer choose not to amend the date of the hearing, this will not prevent the party from raising this issue under Stage 2 of the hearing, nor the Hearings Sub-Committee from reaching a different view on the matter.

4.3.5 Any requests for adjournment which are made during the five working days before the Hearings Sub-Committee meeting (i.e. after the agenda for the meeting has been published), will be decided by the Hearings Sub-Committee at the start of the hearing itself.

GENERAL POINTS REGARDING THE HEARINGS SUB-COMMITTEE MEETING

4.4 FAILURE TO ATTEND THE HEARING

4.4.1 If either Party fails to attend a hearing, the Committee will consider whether there is sufficient reason for the failure.

- 4.4.2 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. The Committee shall consider any representations submitted by the Party in writing before making any determination in the Party's absence.
- 4.4.3 If the Committee does consider there is sufficient reason, it will adjourn the hearing to another date.⁶⁵

4.5 RECORDING THE HEARING

- 4.5.1 It will be normal practice for hearings by the Hearings Sub-Committee to be taped as a matter of course, and the agenda for the hearing will indicate that the proceedings may be taped. It will be the duty of the Chair to inform all parties involved at the start of the hearing that the hearing is being tape recorded.
- 4.5.2 Access to the tapes will be controlled by the Monitoring Officer⁶⁶. 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.

4.6 LEGAL REPRESENTATION AND ADVICE

- 4.6.1 The subject Member may be represented or accompanied during the meeting by a solicitor, counsel, or, with the permission of the Hearings Sub-Committee, another person.
- 4.6.2 The Monitoring Officer will usually act as the legal advisor to the Hearings Sub-Committee for the hearing. The Hearings Sub-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 Sub-Committee should be shared with the Parties attending the hearing.

4.7 ADJOURNING THE HEARING

- 4.7.1 The Hearings Sub-Committee will aim to complete a hearing in one sitting or in consecutive sittings.
- 4.7.2 The Hearings Sub-Committee may at any stage prior to the conclusion of the hearing adjourn the hearing⁶⁷ and require the Investigator to seek further information or undertake further investigation⁶⁸ on any specified point. The Hearings Sub-Committee may not adjourn the hearing on more than one occasion under this paragraph.
- 4.7.3 The Hearings Sub-Committee may at any stage prior to the conclusion of the hearing into a final report issued by an ESO, adjourn the hearing and make a written request

⁶⁶ Access will be provided where required in accordance with the Data Protection Act 1998, or where necessary in relation to an appeal to the [First-Tier Tribunal \(Local Government Standards in England\)](#).

⁶⁷ This is subject to the Committee complying with the requirement that the hearing takes place within three months of the date when the Investigator issued the final report or when the Monitoring Officer received the report from the ESO.

⁶⁸ Regulation 18(8) Standards Committee (England) Regulations 2008.

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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.⁶⁹

- 4.7.4 The Hearings Sub-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.

STAGES OF THE HEARING

4.8 STAGE 1: SETTING THE SCENE

- 4.8.1 The Hearings Sub-Committee and its advisors will assemble in the hearing room⁷⁰. At the start of the Hearing all parties present will be invited to enter the hearing room. The Chair will ensure that the Parties are formally introduced.

- 4.8.2 The Hearings Sub-Committee will consider whether to exclude the public from any parts of the hearing and which parts of the agenda are not to be made available for public inspection⁷¹. When doing so the Hearings Sub-Committee will have regard to the guidance from Standards for England on "Standards Committee Determinations".

- 4.8.3 The Hearings Sub-Committee will keep this issue under review throughout the hearing.

- 4.8.4 The Chair will explain how the Hearings Sub-Committee will run the hearing.

4.9 STAGE 2: PRELIMINARY PROCEDURAL ISSUES

- 4.9.1 The Hearings Sub-Committee will 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. This may include any preliminary decisions made by the Monitoring Officer in consultation with the Chair of the Hearings Sub-Committee.

- 4.9.2 The Hearings Sub-Committee will decide these issues or disagreements.

4.10 STAGE 3: MAKING FINDINGS OF FACT

- 4.10.1 After dealing with any preliminary issues, the Hearings Sub-Committee will consider whether or not there are any significant disagreements about the facts contained in the Investigator's Final Report.

⁶⁹ Regulation 18(10) Standards Committee (England) Regulations 2008.

⁷⁰ 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.

⁷¹ In accordance with Regulation 8(6) Standards Committee (England) Regulations 2008. 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.

4.10.2 If there is no significant disagreement about the facts, the Hearings Sub-Committee will move on to Stage 4 of the hearing.

IF THERE IS DISAGREEMENT OVER THE FINDINGS OF FACT

4.10.3 If there is a disagreement, the Hearings Sub-Committee will invite the Investigator to make any necessary representations to support the relevant findings of fact in the Final Report.

4.10.4 The Investigator may, with the agreement of the Hearings Sub-Committee, call any necessary supporting witnesses to give evidence.

4.10.5 The Hearings Sub-Committee may give the subject Member an opportunity to challenge any evidence put forward by any witness called by the Investigator.

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

4.10.7 The Hearings Sub-Committee may question any of the people involved or any witnesses and allow the Investigator to challenge any evidence put forward by witnesses called by the subject Member.

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

4.10.9 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 Sub-Committee will consider whether it would be in the public interest to continue in their absence.

4.10.10 After considering the subject Member's explanation for not raising the issue at an earlier stage, the Sub-Committee may then:

- Continue with the hearing, relying on the information in the investigator's report;
- Allow the subject Member to make representations about the issue, and invite 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 investigator to be present if they are not already.

4.10.11 The Sub-Committee will usually move to another room to consider the representation and evidence in private. The Hearings Sub-Committee will make findings in relation to the facts.

4.10.12 On their return to the hearing room, the Chair will announce the Sub-Committee's findings of fact.

4.11 STAGE 4: DID THE SUBJECT MEMBER FAIL TO FOLLOW THE CODE OF CONDUCT?

- 4.11.1 The Hearings Sub-Committee shall consider whether or not, based on the facts it has found, the subject Member has failed to follow the Code.
- 4.11.2 The subject Member will be invited to give relevant reasons why the Sub-Committee should decide they have not failed to follow the Code.
- 4.11.3 The Sub-Committee will then consider any verbal or written representations from the investigator.
- 4.11.4 The Sub-Committee may, at any time, questions anyone involved on any point they raise on their representations.
- 4.11.5 The subject Member will be invited to make any final relevant points.
- 4.11.6 The Hearings Sub-Committee will then move to another room to consider the representations and decide whether or not the subject Member has failed to follow the Code.
- 4.11.7 Once a conclusion has been reached, the Chair will announce the Hearings Sub-Committee's decision as to whether or not the subject Member has failed to follow the Code.
- 4.11.8 Where the Hearings Sub-Committee decides that the subject Member has not failed to follow the Code, the Sub-Committee can move on to decide whether it should make any recommendations to the authority in accordance with Stage 6 of this procedure.

4.12 STAGE 5: DECISION TO APPLY A SANCTION

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- 4.12.1 If the Sub-Committee decides that the subject Member has failed to follow the Code, it will consider any verbal or written representations from the Investigator and the subject Member about:-
- whether or not the Committee should impose any sanction;
 - what form any sanction should take.
- 4.12.2 The Hearings Sub-Committee may 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. The Hearings Sub-Committee will also have regard to any advice issued by the First-Tier Tribunal (Local Government Standards in England) and Standards for England within their guidance on "Standards Committee Determinations".
- 4.12.3 The Hearings Sub-Committee will then deliberate in private to consider whether to impose a sanction in the subject Member and, if so, what the sanction should be. The Hearings Sub-Committee can impose any one or a combination of the following:
- Censure of the subject Member.

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- Restriction for a period not exceeding six months of the subject Member's access to the premises of the authority or the subject Member's use of the Council's resources, provided that:
 - those restrictions are reasonable and proportionate to the nature of the breach; and
 - they do not unduly restrict the subject Member's ability to perform the functions of a Councillor.
- Partial suspension of the subject Member for a period not exceeding six months.
- Suspension of the subject Member for a period not exceeding six months.
- That the subject Member to submit a written apology in a form specified by the Hearings Sub-Committee.
- That the subject Member to undertake such training as the Hearings Sub-Committee specifies.
- That the subject Member participates in such conciliation as the Hearings Sub-Committee specifies.
- Partial suspension of the subject Member for a period not exceeding six months or until such time as the subject Member has met either of the following restrictions:
 - They have submitted a written apology in the form specified by the Hearings Sub-Committee.
 - They have undertaken such training or have participated in such conciliation as the Hearings Sub-Committee specifies.
- Suspension of the subject Member for a period not exceeding six months or until such time as the subject Member has met either of the following restrictions:
 - They have submitted a written apology in the form specified by the Hearings Sub-Committee.
 - They have undertaken such training or have participated in such conciliation as the Hearings Sub-Committee specifies.

4.12.4 Suspension or partial suspension⁷² will normally start immediately after the Hearings Sub-Committee has made its decision. However if the Hearings Sub-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 subject Member, for example, in the case of a suspension where there are no authority meetings which the subject Member would normally attend during this period. The Hearings Sub-Committee would also confirm the consequences, if any, for any allowances the subject Member may be receiving.

4.12.5 The Hearings Sub-Committee will retire to consider whether to impose a sanction, and 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.⁷³

4.12.6 The Chair will announce the Hearings Sub-Committee's decision.

⁷² Periods of suspension or partial suspension set by a standards committee do not count towards the six month limit for absences from local authority meetings, after which a member would normally be removed from office under section 85 of the Local Government Act 2000.

⁷³ The Standards Committee Media Protocol will be followed in relation to any dealings with the media about the Complaint.

4.13 STAGE 6: RECOMMENDATIONS TO THE AUTHORITY

4.13.1 The Hearings Sub-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.

4.14 STAGE 7: MAKING THE FINDINGS PUBLIC AT THE HEARING

4.14.1 The Chair will verbally confirm the Hearings Sub-Committee's decision, with reasons, in public at the end of the hearing. Where practicable a written summary of the decision will be provided on that day⁷⁴.

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

4.15 THE HEARING DECISION

4.15.1 The Hearings Sub-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 subject Member;
- the ESO (if relevant);
- the Investigator
- the Standards Committee;
- the Standards Committee of any other authority concerned⁷⁵;
- any Parish Council concerned; and
- the Complainant.

4.15.2 The Hearing decision shall contain the following information and will be written having regard to the guidance in "Standards Committee Determinations" issued by Standards for England:

- a summary of the Complaint;
- the relevant section or sections of the Code of Conduct;
- 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, including the reasons for that finding;
- the sanctions imposed, if any, including the reasons for any penalties; and
- the right of appeal, including details of the postal and website address for the ~~First-Tier Tribunal (Local Government Standards in England)~~. The appeal form produced by the ~~First-Tier Tribunal~~ (which can be downloaded from the website) will be attached to the decision.

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⁷⁴ If it is not practicable to provide a short written decision on the day of the hearing then it will be provided within 3 days of the hearing.

⁷⁵ where at the time of the complaint, the Member was a member of another authority

4.15.3 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 Authority⁷⁶ and if considered appropriate by the Committee on the website of any authority concerned or in any other publication, except where the Committee has found that the subject Member had not failed to comply with the Code of Conduct, and the subject Member asks for the summary not to be published. The Hearings Sub-Committee will decide whether it is appropriate to publish such a notice on the Council's website, or in any other publication, on a case by case basis at the conclusion of the Hearings Sub-Committee meeting.

⁷⁶ In accordance with Regulation 20 of the Standards Committee (England) Regulations

OUTLINE OF THE SUBJECT MEMBERS' RIGHTS DURING THE HEARING PROCESS

PRE-HEARING PROCESS

The subject Member has the right to:

- go to the hearing and present their case;
- call a reasonable number of witnesses to give relevant evidence to the Hearings Sub-Committee; and
- be represented at the hearing by a solicitor, barrister or any other person.

Note – the Hearings Sub-Committee will normally give permission for Members to be represented by people who are not lawyers, but may refuse permission if the representative is directly involved in the matter being determined.

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

The subject Member does not have to go to the hearing or be represented. If the subject Member chooses not to go to the hearing, the Hearings Sub-Committee may make a determination in their absence.

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

HEARING PROCESS

After considering the written and verbal presentations, the Hearings Sub-Committee will reach and announce its findings of fact, whether the subject Member has failed to follow the Code of Conduct and whether a sanction should be applied. As well as announcing its decision at the hearing and providing a short written decision on the day of the hearing, the Hearings Sub-Committee will give the subject Member its full written decision within two weeks of the end of the hearing.

If the Hearings Sub-Committee decides that the subject Member has failed to follow the Code of Conduct and that the subject Member should be sanctioned, it may do any one or a combination of the following:

- Censure the Member. This is the only sanction available when dealing with a person who is no longer a member of the authority.
- Restrict the Member's access to the resources of the relevant authority for up to six months, which could include limiting their access to the premises of the relevant authority.
- Suspend or partly suspend the Member for up to six months.
- Suspend or partly suspend the Member for up to six months on the condition that the suspension or partial suspension will end if the Member apologises in writing, receives

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any training, or takes part in any conciliation that the Hearings Sub-Committee orders them to. Conciliation involves an independent person helping the relevant people to try and reach an agreement on the matter set out by the Hearings Sub-Committee.

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

The Hearings Sub-Committee will also arrange to publish a summary of its findings and any sanction applied in one or more newspapers that are independent of the authorities concerned and circulating in the area of those authorities. If the Hearings Sub-Committee finds that the subject Member has not broken the Code, the subject Member can ask the Hearings Sub-Committee not to have this information published.

The subject Member may appeal against the finding or any sanction applied by the Hearings Sub-Committee. The subject Member has the right to apply in writing to the Principle Judge of the First-Tier Tribunal (Local Government Standards in England) for permission to appeal.

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