

## Pre-Hearing Process Summary Report

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| Authority   | Leeds City Council  |
| Member  | Councillor Pauleen Grahame  |
| Complainant                                       | Mr Michael Weaver   |
| Case reference number                             | 0910005   |
| Chair of the Hearings Sub-Committee               | Mr M Wilkinson  |
| Monitoring Officer                                | Ms N Jackson  |
| Investigator                                      | Ms C Lefort   |
| Committee Clerk                                   | Miss L Ford   |
| Date the pre-hearing process summary was produced | 19 <sup>th</sup> March 2010 (updated on 20 <sup>th</sup> April 2010)            |
| Date, time and place of the hearing               | 11 <sup>th</sup> May 2010, 9:00am, Committee Room 2, Civic Hall, Leeds, LS1 1UR |

### 1. Summary of the complaint

The complaint contains two allegations, as follows:

- (a) The complainant, Mr Michael Weaver, alleges that during a North Whinmoor Forum meeting on 6<sup>th</sup> July 2009, Councillor Grahame interrupted him when he was presenting a report on behalf of a colleague. Mr Weaver alleges that Councillor Grahame stated that she did not think a warden should be giving a report on behalf of the housing office, saying he was not qualified to do so. Mr Weaver outlines that he tried to explain that he had been involved in this particular project from the start; and
- (b) Mr Weaver further alleges that on Tuesday 7<sup>th</sup> July 2009 Councillor Grahame called the Swarcliffe Housing Office to complain that no one from the Housing Office had been at the forum meeting. It is alleged that Councillor Grahame also stated that a "Tory – BMP [*sic.*]" person had given a report, meaning Mr Weaver. Mr Weaver alleges that this was an incorrect remark made in a derogatory manner.

In relation to allegation (a), the Investigator made a finding of no failure and this was accepted by the Consideration Sub-Committee on 1<sup>st</sup> February 2010. Therefore, only allegation (b) has been referred to the Hearings Sub-Committee.

## 2. Relevant section(s) of the Code of Conduct

The following sections of the Code of Conduct are relevant to the complaint:

- The Leeds City Council Members' Code of Conduct states at paragraph 2(1) that:

'Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—

(a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.'

- Paragraph 3(1) of the Code states:

'You must treat others with respect.'

- Paragraph 3(2)(b) of the Code states:

'You must not bully any person.'

- Paragraph 6(a) of the Code states:

'You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.'

## 3. Findings of fact in the report that are agreed/partly agreed

There are three findings of fact in respect of the allegation that has been referred to the Hearings Sub-Committee. Two of the findings of fact are **partly agreed**, as follows:

- ***'Councillor Grahame telephoned the Housing office on 7 July 2009 at approximately 9.30am, and spoke to Karen Shaw'*** – Councillor Grahame has agreed that she telephoned the Housing office on 7 July 2009 and that she spoke to Karen Shaw, however she has stated that it took place at an unknown time; and
- ***'Councillor Grahame spoke about her concerns that no one from the Housing Office had attended the North Whinmoor Forum on 6 July 2009'*** – Councillor Grahame has stated that she spoke about case work issues and also mentioned her concerns that no one from the Housing Office had attended the North Whinmoor Forum on 6 July 2009.

#### 4. Findings of fact in the report that are not agreed

There is one finding of fact that is **not agreed**, as follows:

- ***'Councillor Grahame said during the telephone conversation with Karen Shaw that the Housing Office report should not have been delivered by a neighbourhood warden who was not a representative of the housing office, especially as he was a Tory BNP supporter'***.

The Hearings Sub-Committee will not make findings of fact in respect of the allegation set out in paragraph 1(a) of this summary, as the Investigator's finding of no failure in relation to this allegation was accepted by the Consideration Sub-Committee on 1<sup>st</sup> February 2010.

#### 5. Attendance

The subject Member will attend, and will be represented by Mr Peter McKay of Eversheds, with support from Ms Clare Hardy of Eversheds. The Investigator will attend and will not be represented.

#### 6. Witnesses

Subject to the power of the Hearings Sub-Committee to make a ruling at the hearing, the following people will be asked to give evidence:

- Councillor Peter Gruen – will be asked to give evidence at Stage 3 of the hearing, in relation to whether Councillor Grahame [REDACTED]  
[REDACTED] If the Hearings Sub-Committee resolves that Councillor Grahame did breach the Code of Conduct, Councillor Gruen will also be asked to provide evidence at Stage 5 of the hearing;
- Ms Karen Shaw – will be asked to give evidence at Stage 3 of the hearing, in relation to her telephone conversation with Councillor Grahame which took place on 7 July 2009, and her discussions with Mrs Caroline Elsworth and Mr Michael Weaver which took place after the telephone conversation with Councillor Grahame;
- Mrs Caroline Elsworth – will be asked to give evidence at Stage 3 of the hearing, in relation to her discussions with Ms Karen Shaw and Mr Michael Weaver, which took place after the telephone conversation between Ms Shaw and Councillor Grahame; and
- Mr Michael Weaver – will be asked to give evidence at Stage 3 of the hearing, in relation to his discussions with Ms Karen Shaw and Mrs Caroline Elsworth which took place after the telephone conversation between Ms Shaw and Councillor Grahame.

Please note that the Hearings Sub-Committee will only hear evidence that is relevant to the findings of fact listed in paragraphs 3 and 4 of this summary.

#### 7. Procedure for the hearing

The hearing will be conducted in accordance with the Hearings Sub-Committee Procedure which is set out in paragraph 4 of the Standards Committee Procedure Rules, as attached at Appendix A.

**8. Parts of the hearing that will be held in private**

In accordance with Appendix D of Leeds City Council's Standards Committee Procedure Rules, the Monitoring Officer's view is that the hearing should be open to the public, however the final decision on this matter will be taken by the Hearings Sub-Committee. The Monitoring Officer does not consider that the arguments submitted by the parties justify holding the hearing in private.

**9. Documentation to be withheld from the public prior to the hearing**

The Monitoring Officer's view is that the final investigation report and the additional evidence provided by the subject Member as part of the pre-hearing process should be publicly available although as this is a decision for the Hearings Sub Committee, it will be treated as exempt information prior to the hearing. The Hearings Sub-Committee will decide whether this information should remain exempt at Stage 2 of the hearing.

**10. Preliminary issues identified**

The following preliminary issues have been identified during the pre-hearing process. The Hearings Sub-Committee will decide these issues at Stage 2 of the hearing:

- Whether the hearing or any part of it should be held in private, and whether the final investigation report and additional documentary evidence should remain exempt;
- Whether the Hearings Sub-Committee will hear evidence from Councillor Gruen at Stage 3 of the hearing in relation to [REDACTED]; and
- Whether the Hearings Sub-Committee will consider the additional evidence provided by Councillor Grahame during the pre-hearing process.

## **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 Committee<sup>1</sup>, 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 days<sup>2</sup> 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);
- provide a copy of this Hearings Sub-Committee Procedure to the subject Member;

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<sup>1</sup> As stated in Article 9 of the Constitution.

<sup>2</sup> These are not working days.

- 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 by a set time<sup>3</sup> 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 date<sup>4</sup>;
  - 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.

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 5 working days in which to respond.

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.

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

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<sup>3</sup> 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 working days.

<sup>4</sup> 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.

Information Form within a set time<sup>5</sup>. 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.

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 Committee<sup>6</sup>, where issues arise during the pre-hearing process which relate to decisions which are reserved to the Hearings Sub-Committee<sup>7</sup>, the Monitoring Officer will, in consultation with the Chair of the Hearings Sub-Committee, make preliminary decisions<sup>8</sup> on those matters, as follows:-

- whether the Hearings Sub-Committee consents to the subject Member being represented by a non-legally qualified representative;
- whether witnesses will be heard at the hearing;

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<sup>5</sup> 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.

<sup>6</sup> Minute 12 of the Standards Committee meeting held on 8<sup>th</sup> July 2009.

<sup>7</sup> As set out in Regulation 18(1) to (6) Standards Committee (England) Regulations 2008.

<sup>8</sup> 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 the Hearings Sub-Committee wishes to call any witnesses to attend who may help the Hearings Sub-Committee to determine the complaint;<sup>9</sup>
- 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;<sup>10</sup>
- 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.

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;
- Whether or not the subject Member or the Investigator will attend or be represented;

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<sup>9</sup> This may include the Complainant. The Committee cannot however order witnesses to appear or give evidence.

<sup>10</sup> 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.



- The names of any witnesses who will be asked to give evidence (subject to the power of the Hearings Sub-Committee to make a ruling at the hearing); and
- An outline of the proposed procedure for the hearing.

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.

## **GENERAL POINTS REGARDING THE HEARING 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.<sup>11</sup>

### **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 Officer<sup>12</sup>. 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.

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<sup>11</sup> 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.

<sup>12</sup> 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.

## **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 hearing<sup>13</sup> and require the Investigator to seek further information or undertake further investigation<sup>14</sup> 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 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.<sup>15</sup>
- 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 room<sup>16</sup>. 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 inspection<sup>17</sup>. 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.

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<sup>13</sup> 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.

<sup>14</sup> Regulation 18(8) Standards Committee (England) Regulations 2008.

<sup>15</sup> Regulation 18(10) Standards Committee (England) Regulations 2008.

<sup>16</sup> 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.

<sup>17</sup> 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.

## **4.9 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.
- 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, question 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**

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 Adjudication Panel for 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.
- 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 suspension<sup>18</sup> 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.<sup>19</sup>

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

#### **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 day<sup>20</sup>.

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 concerned<sup>21</sup>;
- any Parish Council concerned; and
- the Complainant.

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<sup>18</sup> 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.

<sup>19</sup> The Standards Committee Media Protocol will be followed in relation to any dealings with the media about the Complaint.

<sup>20</sup> 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.

<sup>21</sup> where at the time of the complaint, the Member was a member of another authority

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 Adjudication Panel. The appeal form produced by the Adjudication Panel (which can be downloaded from the website) will be attached to the decision.

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 Authority<sup>22</sup> 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.

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<sup>22</sup> In accordance with Regulation 20 of the Standards Committee (England) Regulations