

STANDARDS COMMITTEE PROCEDURE RULES

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- 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.

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. However, contact details for those witnesses and details of the arrangements which have been made for their attendance must be provided to the Committee Clerk in advance of 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 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 within 1 day, and the other party must provide a written response to this request within a further 2 days. 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 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.

4.7.3 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.⁶⁷

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.

4.8 WITNESSES

4.8.1 It will be the invariable practice of the Hearings Sub-Committee to exclude witnesses from the hearing until they have given evidence or it has been decided that their evidence is not needed. Witnesses will be asked to wait in a separate holding area until they have given their evidence or the Sub-Committee has decided their evidence is no longer required.

4.8.2 After they have given their evidence they will be invited to remain in the hearing room to observe the remainder of the Hearings Sub-Committee meeting, so long as the Hearings Sub-Committee has not taken a decision to exclude the public from all or part of the meeting.

4.8.3 The Hearings Sub-Committee instructs witnesses not to speak to one another until after they give their evidence to the Sub-Committee. This is in order to avoid the appearance of collusion or bias. To assist in this process, witnesses will not be able to return to the holding area after they have given their evidence.

STAGES OF THE HEARING

4.9 STAGE 1: SETTING THE SCENE

4.9.1 The Hearings Sub-Committee and its advisors will assemble in the hearing room⁶⁸. 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.

4.9.2 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 inspection⁶⁹. When doing so the Hearings Sub-Committee will have regard to the guidance from Standards for England on "Standards Committee Determinations".

⁶⁷ Regulation 18(10) Standards Committee (England) Regulations 2008.

⁶⁸ 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.

⁶⁹ 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.

4.9.3 The Hearings Sub-Committee will take representations from the parties on this point before withdrawing from the hearing room to deliberate and reach a decision. The Chair of the Hearings Sub-Committee will announce the decision on the Sub-Committee's return to the hearing room.

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 Monitoring Officer will be invited to explain any unresolved procedural issues which have arisen from the pre-hearing process. This will include any preliminary decisions made by the Monitoring Officer in consultation with the Chair of the Hearings Sub-Committee.

4.9.2 The Parties will then be invited to make representations about any issues or disagreements about how the hearing should continue, arising from the issues raised by the Monitoring Officer, or otherwise.

4.9.3 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.

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- 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 After both parties have presented their case, each party will have an opportunity to sum up their case to the Hearings Sub-Committee and make any final comments. The investigator will do so first, followed by the subject Member or their representative.

4.10.12 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.

4.10.13 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.

Part 4 (m)

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