

Bromsgrove District Council Standards Committee

Local Hearing Procedure - Hearings Sub-Committee

Representation

1. The Member who is the subject of the allegation (“the Subject Member”) may be represented or accompanied during the hearing by a solicitor, counsel or another person; the permission of the Hearings Sub-Committee is required to allow the Subject Member to be represented or accompanied by a non-legal representative. The Sub-Committee may choose to withdraw its permission to allow a representative if that representative disrupts the hearing.

Legal advice

2. The Sub-Committee may take legal advice from its legal advisor at any time during the hearing or while it is considering the outcome. The substance of any legal advice given to the Sub-Committee should be announced to the meeting.

Introduction

3. The Chairman will introduce the members of the Sub-Committee, the Investigating Officer, the Independent Person and the Officers present. The Subject Member will introduce any person who is acting as his or her representative and any witnesses to be called on his or her behalf. The Investigating Officer will introduce any witnesses that he or she is calling and the complainant (if the Investigating Officer has asked the complainant to attend to give evidence).
4. The Chairman will outline the procedure to be followed.

Preliminary issues

5. The Sub-Committee will consider and decide on any preliminary issues which have not been resolved as part of the pre-hearing process.
6. The Sub-Committee may adjourn the meeting and move to another room to consider those issues. On returning the Chairman will announce the Sub-Committee’s decision and the reason(s) for the decision.

Findings of fact, failure to follow the Code of Conduct and recommendations to the relevant authority

Findings of fact

7. The Sub-Committee will, with the benefit of any advice from the Independent Person (which will be given during the hearing and in the presence of all parties), determine the facts of the matter and whether or not, based on the facts they have found, the Subject Member has failed to follow the Code of Conduct. The Sub-Committee will also consider whether it wishes to make any recommendations to the relevant authority with a view to promoting high standards of conduct among Members.

8. If there is a disagreement on the facts the Investigating Officer will be invited to make representations to support the relevant findings of fact in his or her report. The Investigating Officer may call witnesses or the complainant to give evidence. The Sub-Committee will give the Subject Member an opportunity to question any evidence put forward by the Investigating Officer or any party called by the Investigating Officer. If the Subject Member disagrees with most of the facts, the Investigating Officer may make representations on all the relevant facts, instead of discussing each fact individually.
9. The Subject Member may then make representations to support his or her version of the facts and call any necessary witnesses to give evidence.
10. At any time, the Sub-Committee may question any of the parties involved or any of the witnesses, and may allow the Investigating Officer to question any evidence put forward by the Subject Member or any witnesses called by the Subject Member.
11. If the Subject Member disagrees with any relevant fact in the Investigating Officer's report without having given prior notice of the disagreement as part of the pre-hearing process, he or she must give good reasons for not mentioning it before the hearing. After considering the Subject Member's explanation for not raising any disputed facts at an earlier stage the Sub-Committee may:
 - a) continue with the hearing, relying on the information contained in the Investigating Officer's report;
 - b) allow the Subject Member to make representations about any newly disputed facts and invite the Investigating Officer to respond and call any witnesses, as necessary; or
 - c) postpone the hearing to arrange for appropriate witnesses to be present.
12. Failure to follow the Code of Conduct
The Subject Member will be invited to give relevant reasons why the Sub-Committee should not decide that he or she has failed to follow the Code.
13. The Sub-Committee will then consider any oral or written representations from the Investigating Officer.
14. The Subject Member will be invited to make any final relevant points.
15. The Sub-Committee may, at any time, question anyone involved on any point they raise in their representations.

Decisions and recommendations to the relevant authority

16. The Sub-Committee will adjourn the meeting and move to another room to consider the findings of fact, whether the Subject Member has failed to follow the Code and whether it wishes to make any recommendations to the relevant authority with a view to promoting high standards of conduct among Members (note: If there is a finding of failure to follow the Code a decision on any recommendations to the relevant authority may be made at the point the Sub-Committee determines whether a sanction should be imposed on the Subject Member).
17. On returning the Chairman will announce the Sub-Committee's decisions on the findings of fact, the Subject Member's failure to follow the Code and whether there are any recommendations to be made to the relevant authority.

Sanctions

18. If the Sub-Committee decides that the Subject Member has failed to follow the Code it will consider any representations from the Subject Member as to whether or not the Sub-Committee should impose a sanction and what form any sanction should take. In view of the finding of failure to follow the Code the Sub-Committee may also give further consideration as to whether it wishes to make any recommendations to the relevant authority with a view to promoting high standards of conduct among Members.
19. The Sub-Committee may question the Subject Member and take legal advice to ensure it has all of the information it needs to make a decision.
20. The Sub-Committee will adjourn the meeting and move to another room to consider whether or not to impose a sanction on the Subject Member and, if so, what the sanction should be, and whether it wishes to make any recommendations to the relevant authority.
21. On returning the Chairman will announce the Sub-Committee's decision on any sanction and recommendations.

Written decision

22. The Sub-Committee will announce its decision on the day and a written decision will be issued shortly after the hearing.

Making the findings public

23. *To be determined by the Standards Committee (including website publication, reporting of hearing outcomes to Full Council etc).*

Appeal

24. There is no right of appeal for a complainant or the Subject Member of a decision of the Hearings Sub-Committee. Any decision would however be open to judicial review by the High Court if it was patently unreasonable, if it were taken improperly, or if it sought to impose a sanction which the Council had no power to impose.