

The procedure for hearings before a Hearing Panel of the Standards Committee.

1.1 Formal hearings will be conducted by a panel of three councillors drawn from membership of the Standards Committee on the basis of availability plus one of the Independent Persons.

1.2 A member of the Standards Committee, against whom a Code of Conduct complaint has been made or who has made a complaint shall not be selected as a member of a Hearing Panel.

1.3 Agendas for hearings panels shall be published and hearings panels shall be held in public unless:

- This would involve disclosure of exempt information as defined by Schedule 12A, Local Government Act, 1972; and
- In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

1.4 Before a hearing panel meets, the Monitoring Officer shall write to the member and to the complainant, asking each:

- Whether they accept the finding in the report
- Whether they dispute any factual part of the report, identifying any areas of dispute.
- Whether they wish to call any witnesses at the hearing. Only witnesses identified to the Investigating Officer by the complainant or by the member may be called as witnesses. In law, witnesses do not have to attend a hearing panel.
- Whether the complainant wishes to be present at the hearing. The complainant shall be invited, but is not obliged, to attend the hearing. If the complainant is not present, the procedure below shall be adapted accordingly.
- Whether they wish to be accompanied at the hearing.

1.5 In advance of a meeting of a Hearing Panel its members shall seek to agree who will chair the hearing. The Chair may issue directions about the conduct of the hearing. A member of a Hearing Panel shall not act as Chair unless they have received relevant training.

1.6 Subject to the discretion of the Chair, the hearing shall be conducted as follows:

a. The Investigating Officer will be invited to present their report and to call witnesses. The complainant, the member and the Panel (including the Independent Person), in that order, may ask questions or seek clarification both of the Investigating Officer and any witnesses.

b. The complainant will be invited to comment on the report and its findings and to call witnesses. The Investigating Officer, the member and the Panel, in that order, may ask questions or seek clarification both of the complainant and any witnesses.

c. The member will be invited to comment on the report and its findings and to call any witnesses. The Investigating Officer, the complainant and the Panel, in that order, may ask questions or seek clarification both of the member and any witnesses.

d. The Investigating Officer, the complainant and the member will be invited, in that order, to make brief concluding remarks.

1.7 The Chair and Panel, including the Independent Person, may ask for advice at any stage from the Monitoring Officer.

1.8 Once the hearing has been concluded, the Hearing Panel, with the Independent Person, will retire to consider its decision. It may call on the Monitoring Officer to provide advice and guidance.

The Hearings Panel is required to do the following:

- (i) to decide on the facts,
- (ii) to decide on whether these facts constitute a breach of the Code of Conduct, and
- (iii) to decide on the appropriate sanction.

1.9 In deciding whether or not to uphold the complaint the Hearing Panel must apply, as the standard of proof, the balance of probability, with the burden of proof resting on the Investigating Officer. The Hearing panel may only make an adverse finding if satisfied, on this basis, that the member has breached the Code of Conduct.

1.10 The Hearing Panel will then return and announce its findings on whether there has been a breach of the Code, with reasons. If the Hearing Panel consider there has been a breach it will also announce what, if any, sanction it wishes to impose.

1.11 Following the hearing, the Monitoring Officer shall draft a record of the decision for approval by the Hearing Panel. Once the record of decision has been settled, a copy shall be sent to each of the parties.

2. Appealing a Decision about a Complaint

2.1 There is no right of appeal against a decision on a Code of Conduct complaint. If the complainant or the member considers that the complaint has not been considered properly by BDC, they may be able to complain to the Local Government Ombudsman or seek permission for judicial review.