

# Procedure for Standards Hearings

## 1. Introduction

This Appendix details the procedure to be adopted for the hearing of complaints by the Standards Committee or Standards Sub-Committee ('the Standards Committee') of North Tyneside Council where an investigation has been completed.

The person(s) making the complaint will be referred to in this procedure as the Complainant and the person against whom the complaint is made will be referred to as the Member.

The Investigating Officer means the Monitoring Officer or other person appointed by the Monitoring Officer to conduct a local investigation in relation to a matter referred to the Monitoring Officer for local investigation.

References to Monitoring Officer include any other person appointed by the Monitoring Officer to carry out the functions of the Monitoring Officer.

The Chair of the Standards Committee's primary responsibility is to ensure that a hearing is conducted in a fair yet timely manner and to minimise delay in reaching a decision on a complaint. The Chair of the Standards Committee may decide that a hearing of a complaint will proceed in the absence of a relevant party where the Chair is of the view that it is proper to proceed and to prevent unreasonable delay.

The Complainant and the Member are recommended to read this procedure alongside the Guidance published by the Local Government Association "Guidance on Local Government Association Model Councillor Code of Conduct" <https://local.gov.uk/publications/guidance-local-government-association-model-councillor-code-conduct> and the Association's Guidance "Guidance on Member Model Code of Conduct Complaints Handling" <https://www.local.gov.uk/publications/guidance-member-model-code-conduct-complaints-handling>

## 2. Legal Advice to the Standards Committee

Where the Monitoring Officer also takes the role of the Investigating Officer, he/she must arrange for a separate legal adviser for the Standards Committee in respect of the allegation.

## 3. Notifying the Member and Complainant

The Monitoring Officer shall send a copy of the Investigating Officer's final report to the Member, the Complainant and the Independent Persons.

The Monitoring Officer will ask for a written response from the Member within 14 days, stating whether or not s/he:

- disagrees with any of the findings of fact in the report, including the reasons for any disagreements;
- wants to be represented, at his/her own expense, at the hearing by a solicitor, barrister or any other person;
- wants to give evidence to the Standards Committee, either verbally or in writing;
- wants to call relevant witnesses to give evidence to the Standards Committee;
- wants any part of the hearing to be held in private;
- wants any part of the report or other relevant documents to be withheld from the public

See Forms A to E at Appendix 6.

The Monitoring Officer will also inform the Member that if, at the meeting of the Standards Committee, s/he seeks to dispute any matter contained in the report, without having previously notified his/her intention to do so, the Standards Committee may either adjourn the meeting to enable the Investigating Officer to provide a response, or refuse to allow the disputed matter to be raised.

The Monitoring Officer will also seek the views of the Independent Persons on the report and on any action the Independent Persons feel should be taken in respect of it.

Upon receipt of the responses, the Monitoring Officer will discuss the responses of with the Chair of the Standards Committee and will complete the Pre-hearing Process Summary at Appendix 7.

The Member and the Investigating Officer are entitled to request that any witnesses they want should be called. However, the Chair of the Standards Committee, following advice from the legal adviser, may limit the number of witnesses, if he/she believes the number requested is unreasonable or that some witnesses will simply be repeating the evidence of earlier witnesses, or else will not provide evidence that will assist the Committee to reach its decision.

Nothing in this procedure shall limit the Chair of the Standards Committee from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Standards Committee to reach its decision.

The Chair of the Standards Committee, in consultation with the legal adviser will then:

- confirm a date, time and place for the hearing, which must be within three months from the date that the report was completed;
- confirm the main facts of the case that are agreed;
- confirm the main facts that are not agreed;
- confirm which witnesses will give evidence;
- outline the proposed procedure for the hearing, specifying which parts, if any, will be considered in private; and
- request the Monitoring Officer to provide this information, with the Agenda, to everyone in the hearing at least two weeks before the proposed date of the hearing.

#### **4. The Standards Committee**

The Standards Committee shall decide on the balance of probability, whether the grounds of the complaint are upheld. It shall do so by considering the report and, where appropriate, written or oral representations made by the Member, and any additional relevant information from the Investigating Officer or witnesses.

Each Standards Committee member shall have one vote, and all matters/issues shall be decided by a simple majority of votes cast. If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There is no restriction on how the Chair chooses to exercise a casting vote.

The meeting of the Standards Committee will be open to the public and press unless confidential information or exempt information under Schedule 12A of the Local Government Act 1972 is likely to be disclosed.

#### **5. Procedure at the Hearing**

The initial order of business at the meeting shall be as follows:

- declarations of interest;
- consideration as to whether to adjourn or to proceed in the absence of the Member, if the Member is not present;
- introductions;
- any representation from the Investigating Officer and/or the Member as to reasons why the Standards Committee should exclude the press and public and determination as to whether to exclude the press and public. Where the Standards Committee decides that it will not exclude press and public, the

Monitoring Officer shall at this point provide copies of the agenda and reports to any members of the press and public who are present.

The purpose of the hearing is to test the robustness of the report, by examining the reasoning contained within the report and the quality of the evidence relied upon. This calls for an inquisitorial approach by the Standards Committee based on seeking information in order to identify potential flaws in the report and to clarify issues. The Standards Committee will control the procedure and evidence presented at the hearing, including the questioning of witnesses.

The Standards Committee may at any time seek legal advice from its legal adviser. Such advice will on all occasions be given in the presence of the Investigating Officer and the Member.

The procedure at the hearing will be as follows, subject to the Chair of the Committee being able to make changes as he or she thinks fit in order to ensure a fair and efficient meeting.

#### Examination of report and written representations

The Panel will consider the report together with any written response from the Member to the report. The Committee may require the Investigating Officer to answer questions put to him/her by members regarding the contents of the report.

The Committee must also take account of the views expressed by the Independent Persons in their response to the Monitoring Officer.

#### Oral evidence

If there is any disagreement as to the facts of the case, the Investigating Officer will be invited to make any necessary representations to support the relevant findings of fact in the report, calling supporting witnesses as agreed by the Chair.

Questions may be asked by the Committee at any point. The Member will not be permitted to directly question the Investigating Officer or the witnesses he/she calls.

If the Member wishes to challenge any oral evidence being presented, then these questions shall be directed through the Chair.

The Member will then be invited to make any necessary representations to support their version of the facts, calling supporting witnesses as agreed by the Chair.

Questions may be asked by the Committee/Sub-Committee at any point. The Investigating Officer will not be permitted to directly question the Member or the witnesses he/she calls. If they wish to challenge any oral evidence being presented, then these questions must be directed through the Chair.

Where the Member seeks to dispute any matter in the report which he/she had not given notice of intention to dispute in his/her written statement in response, the

Investigating Officer shall draw this to the attention of the Standards Committee/Sub-Committee. The Standards Committee may then decide:

- not to admit such dispute but to proceed to a decision;
- to admit the dispute, but to invite the Investigating Officer to respond
- to adjourn the meeting to enable the Investigating Officer to investigate and report on the dispute

Where appropriate the Investigating Officer will make representations on behalf of the Complainant to the Standards Committee/Sub-Committee.

The Standards Committee/Sub-Committee may adjourn the hearing to require the Monitoring Officer to seek further information or undertake further investigation on any point specified by the Committee/Sub-Committee.

#### Decision by the Standards Committee

The Standards Committee will consider in private session which of the following findings to adopt:

- that there is no evidence of any failure to comply with the Code of Conduct;
- that the Member has failed to comply with the Code of Conduct, but that no action needs to be taken;
- that the Member has failed to comply with the Code of Conduct and that a sanction should be imposed.

The available sanctions are: -

- (i) Issue a formal censure;
- (ii) Report its findings in respect of the subject member's conduct to full Council
- (iii) Recommend to the subject member's group leader (or in the case of un-grouped members, recommend to full Council) that they be removed from any or all Committees or Sub-Committees of the Authority;
- (iv) Recommend to the Elected Mayor that the subject member be removed from positions of responsibility for a specified period;
- (v) Instruct the Monitoring Officer to arrange training for the subject member;
- (vi) Recommend to full Council that the subject member be removed from all outside appointments to which they have been appointed or nominated by the Authority;
- (vii) Recommend to the Mayor that the subject member be removed from all outside appointments to which they have been appointed by the Mayor;
- (viii) Recommend to full Council that it withdraws facilities provided to the subject member by the Authority for a specified period, such as a computer, website and/or email and internet access;
- (ix) Recommend to full Council that it excludes the subject member from the Authority's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending full Council, a

- Committee or Sub-Committee meeting and/or restricts contact with officers to named officers only;
- (x) If relevant recommend to the secretary or appropriate official of a political group that the member be removed as group leader or other position of responsibility.

In deciding what sanction (if any) to take, the Standards Committee/Sub-Committee will consider all relevant circumstances including any views expressed by the Independent Persons.

The Standards Committee/Sub-Committee will then resume the public session and the Chair will announce the decision and the reasons for that decision.

If the matter is a complicated one, where the complaint has a number of aspects, the Standards Committee/Sub-Committee can decide to consider the evidence and reach a finding on each aspect separately.

The Standards Committee/Sub-Committee will then consider in open session whether there are any recommendations which it wishes to make arising from consideration of the allegation.

#### Notice of findings

The Monitoring Officer will make a short written decision available on the day of the hearing and a full written decision in draft will be prepared as soon as possible.

Within two weeks of the end of the hearing, the Monitoring Officer will circulate a full written decision, to the Member and the Complainant.

At the same time the Monitoring Officer shall arrange for a summary of the findings to be published as may be directed by the Standards Committee/Sub-Committee.

Where the Standards Committee/Sub-Committee determines that there has not been a breach of the Code of Conduct, the notice shall:

- state that the Standards Committee/Sub-Committee found that the Member had not failed to comply with the Code of Conduct and shall give its reasons for reaching that finding; and not be published if the Member so requests;

Where the Standards Committee/Sub-Committee determines that there has been a failure to comply with the Code of Conduct, but no action is required, the notice shall:

- state that the Standards Committee found that the Member had failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure specify the details of the failure; and give reasons for the decision reached;

Where the Standards Committee/Sub-Committee determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice shall:

- state that the Standards Committee/Sub-Committee found that the Member had failed to comply with the Code of Conduct;
- specify the details of the failure;
- give reasons for the decision reached; and
- specify the sanction imposed

Copies of the agenda, reports and minutes of a hearing, as well as any background papers, apart from sections of documents relating to parts of the hearing that were held in private, will be available for public inspection for six years after the hearing.

#### Confidentiality and disclosure of information

Where the Chair of the Standards Committee/Sub-Committee considers that the report and/or any of the written statements in response are likely to disclose any exempt information and in consequence that it is likely that the Standards Committee/Sub-Committee will, during consideration of these matters, not be open to the public, he/she shall instruct the legal adviser to not provide copies of these papers to the press or public or permit their inspection by the press or public in advance of the meeting.

The Hearing will be held in public except for those parts of its proceedings which involve exempt information and during the deliberations of the Standards Committee/Sub-Committee.