

**ETHICS COMMITTEE CODE OF CONDUCT HEARING
PROCEDURE NOTE**

A. Preliminary Points

General Matters

1. The purpose of the hearing is for the Ethics Committee (“the Committee”) to decide whether the complaint(s) against the Subject Member or Members discloses a breach or partial breach of the Code of Conduct for Elected and Co-opted Members (“the Code”). If a breach is found to have occurred, the Committee will determine what sanction, if any, should be applied.
2. The procedure for the day will be in the discretion of the Chair, and may be adapted either before the day, from the agenda sent out, or on the day itself.
3. All hearings before the Committee will be in public unless the Monitoring Officer advises the Committee it must retire to consider an item in private.
4. Given the relative informality of proceedings, it is not envisaged that legal representation will be required and it should be regarded as the exception. The Chair of the Committee will have the discretion to allow legal representatives to take part in the proceedings. Where this is permitted, it will be on the understanding that the proceedings should not be treated as a court of law.
5. The Committee consists of five members. The quorum for a meeting of the Committee is three.

Role of Independent Person

6. The Independent Person’s views must be sought and taken into consideration before the Committee takes any decision on whether the Subject Member’s conduct constitutes a failure to comply with the Code of Conduct and as to any sanction to be taken following a finding of failure to comply with the Code.
7. The Independent Person (IP) should normally be present throughout the hearing (but not during the deliberations of the Committee in private). The IP will submit their views in writing before the hearing and in the event that the IP cannot be present at the hearing, the Committee may take these written views into account.

8. The IP is not a member of the Committee.

Procedural Matters

9. The legal requirements for publishing agendas and minutes and calling meetings, will apply to the Committee. The hearing will normally be held in public but Schedule 12A of the Local Government Act 1972 may be applied to exclude the public and press from meetings of the Committee where it is likely that confidential or exempt information will be disclosed.
10. Once a hearing has started, the City Council rules on substitution do not apply to the Committee's proceedings.
11. All matters or issues before the Committee will be decided by a simple majority of votes cast, with the Chair having a second or casting vote.

Absence of Subject Member or Complainant

12. Where the Subject Member or the Complainant fails to attend the hearing and where the Committee is not satisfied with their explanation for their absence from the hearing, the Committee may in the first instance, have regard to any written representations submitted by the Subject Member or by the Complainant and may resolve to proceed with the hearing in their absence and make a determination. If the Committee is satisfied with the Subject Member's or Complainant's reason for non-attendance, it may adjourn the hearing to another date.

Right to be accompanied

13. The Subject Member or the Complainant may choose to be accompanied by a fellow councillor (in the case of the Subject Member) a friend or a colleague. Legal representatives will not normally be permitted to attend the hearing (but see paragraph A4 above).

B. Procedure at the Hearing

Order of Business

1. Subject to the right of the Chair to exercise their discretion to amend the order of business, the following matters will be dealt with prior to the start of the hearing:

(a)	Apologies for absence;
(b)	Declarations of Interest;
(c)	The Chair will briefly outline the nature of the complaint and the purpose of the hearing and the procedure to be followed;
(d)	Introductions by the Chair;
(e)	In the absence of the Subject Member or Complainant, consideration as to whether to adjourn or to proceed with the hearing;
(f)	To consider representations from the Complainant and from the Investigating Officer as to the adequacy of the investigation and the Investigating Officer's Report;
(g)	To decide, after hearing representations from the Complainant and from the Investigating Officer and after consulting with the Independent Person, whether any additional documents submitted by any of the parties should be considered;
(h)	To receive representations from the Legal Advisor and/or Subject Member or Complainant as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press;
(i)	To determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press;

Once all preliminary matters have been dealt with, the hearing will follow the procedure set out in the rest of this Procedure Note.

Presentation of the Investigating Officer's Report

2. The Investigating Officer will present their report including any documentary evidence or other material. As all of the parties to the hearing and the Committee will have received the Report and supporting documents in

advance of the hearing, the Investigating Officer will deal with the points in dispute and will not be expected to go through any sections of the report that are agreed between the parties.

3. The Complainant or their representative may question the Investigating Officer.
4. The Subject Member or their representative may question the Investigating Officer.
5. The Committee may question the Investigating Officer upon the content of their report.

Presentation of the Subject Member's Case

6. Where the Subject Member disputes any points within the Investigating Officer's Report or disagrees with the Investigating Officer's conclusions, they, or their representative may present their case.
7. The Investigating Officer may question the Subject Member.
8. The Complainant or their representative may question the Subject Member.
9. The Committee may question the Subject Member.

Presentation of the Complainant's Case

10. The Complainant, or their representative, will present their case including any documentary evidence or other material. As all of the parties to the hearing and the Committee will have received the Complainant's Response to the Report and supporting documents in advance of the hearing, the Complainant, or their representative, will deal with the points in dispute and will not be expected to go through any sections of the Report or the Response that are agreed between the parties.
11. The Investigating Officer may question the Complainant or their representative.
14. The Subject Member may question the Complainant or their representative.
15. The Committee may question the Complainant or their representative.

Summing Up

16. (a) The Investigating Officer sums up the complaint;
(b) The Subject Member or their representative sums up their case;

(c) The Complainant or their representative sums up their case.

Views/Submissions of the Independent Person

15. The Chair will invite the Independent Person to express their view on whether or not they consider that on the facts presented to the Committee, there has been a breach of the Code of Conduct

C. Deliberations of the Hearing Panel

Deliberation in private

- 1.(a) The Committee will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether or not, on the facts found, the Subject Member has failed to comply with the Code of Conduct.
- (b) The Committee may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the Complainant. If further information to assist the Committee cannot be presented, then the Committee may adjourn the hearing and issue directions as to the additional evidence required and from whom.

Announcing the decision

2. The Committee will reconvene the hearing in public and the Chair will announce whether or not on the evidence presented, the Committee considers that there has been a breach or breaches of the Code of Conduct.

Sanctions

3. Where the Committee finds that there has been a breach of the Code of Conduct, the Chair will invite the Independent Person, the Subject Member and the Complainant to make their representations as to whether or not any sanctions should be applied and, if so, what form they should take.
4. When deciding whether to apply one or more sanctions, the Committee will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour.
5. The Committee will consider what action it should take from the list of possible sanctions set out in paragraph 5(5) of the Complaints Protocol. The Committee has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.

Finding of No Breach

6. In the event that the Committee determines there has been no breach of the Code, then it will announce the decision accordingly and direct that the Monitoring Officer informs both the Complainant and the Subject Member as soon as possible after the meeting if either is not present at the hearing.

Publication and notification of the Committee's decision and recommendations

7. Within 14 days of the Committee's announcement of its decision and recommendations, the Monitoring Officer will publish the name of the Subject Member and a summary of the Committee's decision and recommendations and reasons for the decision and recommendations ("the Full Decision") on the City Council's website. The Full Decision must be agreed with the Chair, prior to publication.
8. No later than the date on which the Full Decision is published on the Council's website, the Monitoring Officer will provide a copy of the Full Decision to the Subject Member and the Complainant.