

**Procedure for Referrals to the Monitoring Officer for  
Investigation and Determination**

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## **1. Interpretation**

“Subject Member”, except where the context otherwise requires, means the Member or Co-opted Member of the authority who is the subject of the allegation being considered by the Determination Hearing Sub-Committee.

“Investigating Officer” means the Ethical Standards Officer who referred the report to the authority, and includes his or her nominated representative. In the case of matters that have been referred for local investigation, references to the Investigating Officer means the person appointed by the Monitoring Officer to undertake that investigation.

“The Determination Hearing Sub-Committee” refers to the Standards Committee Sub-Committee whose role it is to hear cases and make local determinations on complaints about alleged breaches of the Code of Conduct for Members.

“Assessment Sub-Committee” refers to the Standards Committee Sub-Committee whose role it is to hear allegations of breaches of the Code of Conduct for Members. The Assessment Sub-Committee may refer the matter for local investigation or other action although they make no finding of fact.

“Review Sub-Committee” refers to the Standards Committee Sub-Committee whose role it is to review decisions of the Assessment Sub-Committee in respect of allegations of breaches of the Code of Conduct for Members. The Review Sub-Committee may refer the matter for local investigation or other action although they make no finding of fact.

“The Committee Support Officer” means an officer of the authority responsible for supporting the Assessment Sub-Committee, Review Sub-Committee and Determination Hearing Sub-Committee in discharging its functions.

“Legal Adviser” means the officer responsible for providing legal advice to the Assessment Sub-Committee, Review Sub-Committee and Determination Hearing Sub-Committee. This may be the Monitoring Officer, Deputy Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

“The Chairman” refers to the person presiding at the Assessment Sub-Committee, Review Sub-Committee and Determination Hearing Sub-Committee, who shall be an Independent Member of the Standards Committee.

“The Pre Hearing Summary Report” is the covering report prepared by the Legal Adviser which sets out the main aspects of the case, to be heard by the Determination Hearing Sub-Committee. It highlights any points of difference in respect of which the Subject Member has stated that he/she disagrees with any findings of fact in the Investigating Officer’s report.

## **2 The Investigation**

The Monitoring Officer will have regard to guidance given from time to time by the Standards Board for England (the Board).

Where an Ethical Standards Officer from the Board or the Assessment Sub-Committee or the Review Sub-Committee refer a complaint to the Monitoring Officer for investigation, the Monitoring Officer will not normally personally conduct that investigation but will arrange for another senior Council officer, a senior officer of another authority or an appropriately experienced external person to carry out the investigation.

The Monitoring Officer should take care to avoid any personal conflicts of interest. The Monitoring Officer must not participate in the process of investigation or advising the Determination Hearing Sub-Committee if a direct or indirect interest exists.

When a matter is referred for investigation or other action the following persons and organisations need to be informed:

- the Subject Member
- the Complainant
- the Standards Committee of any other authority concerned
- the relevant Parish/Town Council if the Subject Member is a Parish/Town Council Member

## **3 Conduct of the Investigation**

The purpose of the Investigating Officer's investigation is to enable him/her to prepare and present to the Determination Hearing Sub-Committee a report which will provide the Committee with sufficient information to determine, whether the Member has acted in breach of the Authority's Code of Conduct and where there has been a breach whether the Committee should sanction the Councillor.

## **4 Evidence of Other Breaches**

The Investigating Officer cannot investigate further potential breaches of the Authority's Code of Conduct, arising out of an investigation.

Where the Investigating Officer becomes aware of any new matters which appear to him/her to indicate a further breach the Investigating Officer may refer the matters to the Monitoring Officer who may under notice to the Complainant refer the matter to the Assessment Sub-Committee for consideration.

## **5 Confidentiality**

The Investigating Officer will maintain confidentiality throughout the course of the investigation.

Maintaining confidentiality during the conduct of the investigation reduces opportunities for evidence to be seen as unfair or biased and preserves the integrity of the investigation.

The Subject Member, Complainant, interviewees, witnesses and others aware of the investigation will be required to maintain confidentiality.

The fact that an investigation is being conducted does not need to remain confidential.

## **6 Termination of the Investigation**

The Investigating Officer may terminate his/her investigation at any point, where he/she is satisfied that he/she has sufficient information to enable him/her to report to the Determination Hearing Sub-Committee.

## **7 Witnesses**

The Investigating Officer cannot compel the attendance of witnesses or their co-operation. However, any Member who fails to co-operate with the Investigating Officer during the conduct of an investigation may be regarded as being in breach of the Authority's Code of Conduct.

In addition, if an officer of the Authority fails to co-operate with the Investigation Officer during the conduct of the investigation he/she may be regarded as being in breach of the Authority's Employee Code of Conduct.

## **8 Referral Back to an Ethical Standards Officer**

During the course of an investigation referred by an Ethical Standards Officer, circumstances may arise that prompt a request that the Ethical Standards Officer take the case back. These circumstances could include evidence of further breaches relating directly to the investigation or when the Investigating Officer has been prevented from completing the investigation. As example of this is where a Subject Member refuses to cooperate with an investigation.

The Monitoring Officer may at any stage prior to completion of the investigation and on notice to the Subject Member, the Complainant and if applicable the Clerk to the Parish/Town Council, make a request in writing to the Ethical Standards Officer that the matter be referred back to the Ethical Standards Officer for him/her to undertake the investigation. Any such request must set out the Monitoring Officer's reasons for making it. The Ethical Standards Officer will have discretion to decide whether or not to accept the case back.

## **9 Referring Cases Back to the Standards Committee**

During the course of an investigation, circumstances may arise that prompts a referral back to the Assessment Sub-Committee. This can only be done during an investigation in the following circumstances:

- It is believed that evidence is uncovered suggesting a case is more or less serious than may have seemed apparent to the original Sub-Committee. Furthermore, if the Sub-Committee had been aware of that evidence, it would most likely have made a different decision about how the case would be dealt with.
- The Subject Member has died, is seriously ill or has resigned from the authority and there is a belief that it is no longer appropriate to continue with the investigation.

All requests must be made before the completion of the investigation. The Subject Member and Complainant should be notified of a decision to refer the allegation back to the Standards Committee, and time scales should be provided within which the matter will be dealt with.

The Assessment Sub-Committee will deal with the request as it would deal with an initial complaint. If the Standards Committee decides to refer the allegation back to the Monitoring Officer, it can limit the circumstances in which the case can be referred back to it again. The Standards Committee can decide that the case may only be referred back to it again if the Subject Member has died, is seriously ill or has resigned from the authority.

It should be noted that a case cannot be referred back to the Assessment Sub-Committee if the Sub-Committee had originally decided to take other action rather than carry out an investigation.

## **10 Deferring an Investigation**

An Investigation can be deferred when any of the following conditions are met:

- There are ongoing criminal proceedings or a police investigation into the member's conduct.
- You cannot proceed with your investigation without investigating similar alleged conduct or needing to come to conclusions of fact about events which are also the subject of some other investigation or court proceedings.
- Your investigation might prejudice another investigation or court proceedings.
- When there is an ongoing investigation by another regulatory body
- A key party is seriously ill.
- A key party is genuinely unavailable.

The Monitoring Officer should be informed if the Investigating Officer becomes aware of any circumstances that might require the investigation to be deferred in which case the Monitoring Officer may grant consent for the deferral. When a decision is taken to defer an investigation the following should be informed:

- the Subject Member
- the Complainant
- the Standards Committee of any authority concerned
- the relevant Parish/Town Council if the Subject Member is a Parish/Town Council Member

Once a decision is taken to begin the investigation again the following should be notified in writing:

- the Subject Member
- the Complainant
- the Standards Committee of any authority concerned
- the relevant Parish/Town Council if the Subject Member is a Parish/Town Council Member

## **11 The Draft Report**

On the conclusion of his/her investigation and/or when the Investigating Officer is satisfied that he/she has sufficient information to present to the Determination Hearing Sub-Committee or has obtained as much information as is likely to be reasonably capable of being obtained, the Investigating Officer will issue a draft report which will be sent in confidence to the Subject Member and the Complainant for comment.

The Subject Member and the Complainant may make written representations on the draft report. Such representation must be received by the Investigating Officer within 14 days of the issue of the draft report, unless an extension of time is given by the Investigating Officer.

Responses to the draft report may reveal the need for further investigation by the Investigating Officer.

The Investigating Officer has the ability to issue a further draft report where responses reveal the need for further investigation and where responses result in changes to the report.

Once the Investigating Officer has determined that the responses received add nothing of substance to the investigation, he/she will make his/her final conclusions and recommendations to the Monitoring Officer.

## **12 The Investigating Officer's Final Report**

The Investigating Officer's Final Report will make one of the following findings:

- That there has been a failure to comply with the Code of Conduct (a finding of failure)

- that there has not been a failure to comply with the Code of Conduct (a finding of no failure)

A copy of the Final Report will be sent to the Subject Member and may also be made available to the Complainant in confidence. If the Subject Member is a Parish/Town Councillor the relevant Parish/Town Clerk should be advised of the Final Report in confidence.

If the Investigating Officer concludes that there has been no breach of the Code this should be explained in the covering letter and that the report will be considered by the Determination Hearing Sub-Committee who may reach a different conclusion to the Investigating Officer.

When the Final Report is considered by the Determination Hearing Sub-Committee it will normally be as an appendix to a covering report (Pre-Hearing Summary report) from the Monitoring Officer, which will be on the Agenda of the Determination Hearing Sub-Committee. Both reports can be kept confidential under paragraph 7C of Schedule 12A of the Local Government Act 1972 until the Determination Hearing Sub-Committee decides at the hearing whether it wishes to meet in publi

### **13. Finding of no Failure**

Where the Investigating Officer's report concludes that there has been no failure a meeting of the Determination Hearing Sub-Committee will be convened no later than 3 months from the date of the Investigating Officer's Report and the agenda published in accordance with the access to information rules set out in the Council's Constitution.

The Agenda will include the Investigating Officer's Report and exhibits that is background documents such as witness statements/interview notes and supporting documents

The Agenda will be sent to the Subject Member and the Complainant and if applicable to the Clerk of the Parish/Town Council.

The Local Government rules relating to exempt/confidential information will apply.

The Determination Hearing Sub-Committee must decide at its meeting whether it agrees with the finding of no failure or believes there is a case to answer.

The Determination Hearing Sub-Committee will simply consider the Investigating Officer's Report and will not seek to interview witnesses or take representations from the parties. The Committee's role is to decide whether, based on the facts set out in the Investigating Officer's Report, the Committee agrees with the finding of no failure.

If the Determination Hearing Sub-Committee accepts the findings of no failure, the Committee's acceptance will be referred to as 'a finding of

acceptance'. The Committee may consider whether it is minded to make any recommendations to the Authority with a view to promoting high standards of conduct.

The Determination Hearing Sub-Committee on accepting a finding of no failure will arrange for a notice to be published in a local newspaper. It can also arrange for a notice to be published on the authority's website and in any other publication. The notice should state the Determination Hearing Sub-Committee's finding, and give reasons for it. The subject member should be asked by the Committee whether he/she agrees to publication as the subject member it entitled to insist that the notice is not published anywhere.

Where the Determination Hearing Sub-Committee decides that on the balance of probability there is a case to answer, the Committee will arrange for a formal hearing to be convened and the Committee should endeavour to convene this within three months of the date of the Investigating Officer's Report.

#### **14 Finding of a Failure**

The Determination Hearing Sub-Committee will hold a hearing in accordance with this procedure to determine whether a breach of the Authority's Code of Conduct has occurred and whether in consequence, any action should be taken against the Councillor.

#### **15 Pre-Hearing Procedure**

The officer providing administrative support to the Determination Sub-Committee should write to the Subject Member proposing a date for the hearing and they should do this in consultation with the Chair of the Determination Sub-Committee.

The hearing procedure should also be outlined and the Subject Member should be requested to complete and return the model Pre-Hearing Forms set out in the Board's Determination Toolkit as follows:

- form a – Subject Member's response to the evidence set out in the Investigation Report
- form b – Other evidence relevant to the complaint
- form c – Representations to be taken into account if a Member is found to have failed to follow the Code of Conduct
- form d – Arrangements for the standards committee hearing
- form e – Details of proposed witnesses to be called

In the light of any Pre-Hearing Forms returned by the Subject Member these will be sent to the Investigating Officer for his/her comments.



Witnesses who will be required to attend the hearing will be notified of the date, time and place of the hearing and that their attendance is required.

The Legal Adviser to the Determination Hearing Sub-Committee will prepare a Pre-Hearing Summary report setting out the main aspects of the case that will be heard and which can include those matters contained in form f – checklist for the Pre-Hearing Summary report contained in the Board's Determination Toolkit.

## **16 The Determination Sub-Committee Hearing Procedure**

The Committee hearing will be held no earlier than fourteen working days after the Investigating Officer's Report has been copied to the Subject Member but in any event, no later than three months from the date of the Investigating Officer's Report. The Determination Hearing Sub-Committee will endeavour to complete the hearing within the three month period, although the Determination Hearing Sub-Committee's jurisdiction will not be lost where there is legitimate reasons why the three month deadline is not met. Where the Determination Hearing Sub-Committee is unable to complete the hearing within the three month deadline it should do so as soon as is reasonably practicable thereafter.

The Chairman may agree to vary the Determination Sub-Committee Hearing Procedure in any particular instance where he/she is of the opinion that such a variation is necessary in the interests of fairness.

The Subject Member may be represented or accompanied during the hearing by a solicitor, counsel or, with the permission of the Determination Sub-Committee another person. The cost of such representation will be met by the Subject Member.

The legal requirements for publishing agendas, minutes and calling meetings will be adhered to.

The Monitoring Officer will, where possible, be the Legal Advisor and will support the Determination Hearing Sub-Committee.

The Determination Hearing Sub-Committee will be held during the daytime and except in complicated cases, the Determination Hearing Sub-Committee should aim to complete a hearing in one sitting.

The purpose of the hearing is to test the robustness of the Investigation Officer's Report by examining the reasoning contained within the Report and the quality of the evidence relied upon.

The Determination Hearing Sub-Committee will control the hearing process and evidence presented.

At the start of the hearing, the Chairman shall introduce each of the Members of the Hearing Panel, the Subject Member if present, the Investigating Officer, the Legal Adviser and any other officers present, and shall then explain the procedure which the hearing panel will follow in the conduct of the hearing.

The Determination Hearing Sub-Committee shall then deal with the following preliminary procedural matters in the following order:

- Disclosure of interests – The Chairman shall ask members of the Committee to disclose the existence and nature of any personal or prejudicial interests which they have in the matter, and to withdraw from consideration of the matter if so required.
- Quorum – The Chairman shall confirm that the Committee is quorate.
- Hearing procedure – The Chairman shall confirm that all present know the procedure which the Committee will follow in determining the matter.
- Procedure in the absence of the Subject Member – If the Subject Member is not present at the start of the hearing the Chairman will ask the Legal Adviser whether the Subject Member has indicated his/her intention not to attend the hearing. The Committee shall then consider any reasons which the Subject Member has provided for not attending the hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend. If the Committee is satisfied with such reasons, it shall adjourn the hearing to another date. If the Committee is not satisfied with such reasons, or if the Subject Member has not given any such reasons, the Committee will decide whether to consider the matter and make a determination in the absence of the Subject Member or to adjourn the hearing to another date.

The Determination Hearing Sub-Committee will consider the exclusion of the press and public.

The Determination Hearing Sub-Committee will conduct the hearing in public, unless the Determination Hearing Sub-Committee determine that protecting the privacy of anyone involved is more important than the need for a public hearing. The exclusion of the press and public will only be in exceptional circumstances.

The Chairman will ask the Subject Member, the Investigating Officer and the Legal Adviser to the Committee whether they wish to ask the Committee to exclude the press or public from all or any part of the hearing and their reasons. The Committee shall then determine whether to exclude the press and public from all or any part of the hearing.

When considering whether to exclude the press/public from a hearing, the Committee will identify which parts of the report and or other supporting information is not to be made available for public inspection applying the rules on confidential and exempt information.

Where the Determination Hearing Sub-Committee does not resolve to exclude the press and public, the agenda and any documents which have been withheld from the press and public in advance of the meeting shall then be made available to the press and public.

If the Determination Hearing Sub-Committee resolves to exclude the press and public to prevent exempt or confidential information from being revealed, the reasons for so resolving will be minuted accordingly and the press and public should only be excluded for that part of the proceedings where such information is likely to be revealed.

The Determination Hearing Sub-Committee will then address the issue of whether the Subject Member failed to comply with the Code of Conduct in the manner set out in the Investigating Officer's Report.

The Chairman will ask the Subject Member to confirm that he/she maintains the position as set out in the Pre-Hearing Summary Report.

The Chairman will ask the Legal Adviser to present the Pre-Hearing Summary Report, highlighting any points of difference in respect of which the Subject Member has stated that he/she disagrees with any finding of fact in the Investigating Officer's report.

The Chairman will then ask the Subject Member to confirm that this is an accurate summary of the issues and ask the Subject Member to identify any additional points upon which he/she disagrees with any finding of fact in the Investigating Officer's report.

If the Subject Member admits that he/she has failed to comply with the Code of Conduct or in the manner described in the Investigating Officer's report, the Hearing Panel may then make a determination that the Member has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report and proceed directly to consider whether any action should be taken.

If the Subject Member identifies additional points of difference, the Chairman shall ask the Subject Member to explain why he/she did not identify these points as part of the Pre-Hearing Process. He/she shall then ask the Investigating Officer (if present) whether he/she is in a position to deal with those additional points of difference directly or through any witnesses who are in attendance or whose attendance at the hearing can conveniently be arranged. Where the Determination Hearing Sub-Committee is not satisfied with the Subject Member's reasons for failing to identify each additional point of difference as part of the Pre-Hearing Process, it may decide that it will continue the hearing but without allowing the Subject Member to challenge the veracity of those findings of fact which are set out in the Investigating Officer's report but in respect of which the Subject Member did not identify a point of difference as part of the Pre-Hearing Process, or it may decide to adjourn the hearing to allow the Investigating Officer and/or any additional witnesses to attend the hearing.

## **17. Presenting the Investigating Officer's report**

If the Investigating Officer is present, the Chairman will then ask the Investigating Officer to present his/her report, having particular regard to any points of difference identified by the Member and why he/she concluded, on the basis of his/her finding of fact, that the Member had failed to comply with

the Code of Conduct. The Investigating Officer may call witnesses as necessary to address any points of difference.

If the Investigating Officer is not present, the Determination Hearing Sub-Committee shall only conduct a hearing if they are satisfied that there are no substantial points of difference or that any points of difference can be satisfactorily resolved in the absence of the Investigating Officer. In the absence of the Investigating Officer, the Determination Hearing Sub-Committee shall determine on the advice of the Monitoring Officer which witnesses, if any, to call. Where such witnesses are called, the Chairman shall draw the witnesses' attention to any relevant section of the Investigating Officer's report and ask the witness to confirm or correct the report and to provide any relevant evidence.

No cross-examination shall be permitted except at the discretion of the Chairman in the interests of natural justice. At the conclusion of the Investigating Officer's report and/or of the evidence of each witness, the Chairman shall ask the Subject Member if there are any matters upon which the Determination Hearing Sub-Committee should seek the advice of the Investigating Officer or the witness.

#### **18. The Subject Member's Response**

The Chairman shall then invite the Subject Member to respond to the Investigating Officer's report and to call any witnesses as necessary to address any points of difference.

No cross-examination shall be permitted except at the discretion of the Chairman in the interests of natural justice. At the conclusion of the Subject Member's evidence and/or of the evidence of each witness, the Chairman shall ask the Investigating Officer if there are any matters upon which the Determination Hearing Sub-Committee should seek the advice of the Subject Member or the witness.

#### **19. Evidence**

The Determination Sub Committee shall be entitled to refuse to hear evidence from the Investigating Officer, the Subject Member or a witness unless they are satisfied that such persons are likely to give evidence which they need to hear in order to be able to determine whether there has been a failure to comply with the Code of Conduct.

Any member of the Determination Hearing Sub-Committee may address questions to the Investigating Officer, to the Subject Member or to any witness.

#### **20. Additional Evidence**

At the conclusion of the evidence, the Chairman shall check with the members of the Determination Hearing Sub-Committee that they are satisfied that they have sufficient evidence to come to a considered conclusion on the matter.

If the Determination Hearing Sub-Committee at any stage prior to determining whether there was a failure to comply with the Code of Conduct are of the opinion that they require additional evidence on any point in order to be able to come to a considered conclusion on the matter, the Determination Hearing Sub-Committee may (on not more than one occasion) adjourn the hearing and make a request to the Investigating Officer to seek and provide such additional evidence and to undertake further investigation on any point specified by the Determination Hearing Sub-Committee.

**21. Determination as to Whether there was a Failure to Comply with the Code of Conduct**

At the conclusion of the Subject Member's response, the Chairman shall ensure that each member of the Determination Hearing Sub-Committee is satisfied that he/she has sufficient information to enable him/her to determine whether there has been a failure to comply with the Code of Conduct as set out in the Investigating Officer's report.

Unless the determination merely confirms the Subject Member's admission of a failure to comply with the Code of Conduct the Determination Hearing Sub-Committee shall then retire to another room to consider in private whether the Subject Member did fail to comply with the Code of Conduct as set out in the Investigating Officer's report.

The Determination Hearing Sub-Committee shall take its decision on the balance of probability based on the evidence which it has received at the hearing.

The Determination Hearing Sub-Committee's function is to make a determination on the matter. It may, at any time, return to the main hearing room in order to seek additional evidence from the Investigating Officer, the Subject Member or a witness, or to seek the Legal Advice from or on behalf of the Monitoring Officer. If it requires any further information, it may adjourn and instruct an officer or request the Subject Member to produce such further evidence to the Determination Hearing Sub-Committee.

At the conclusion of the Determination Hearing Sub-Committee's consideration, the Determination Hearing Sub-Committee shall consider whether it is minded to make any recommendations to the authority with a view to promoting high standards of conduct among Members.

The Determination Hearing Sub-Committee shall then return to the main hearing room and the Chairman will state the Determination Hearing Sub-Committee's principal findings of fact and their determination as to whether the Subject Member failed to comply with the Code of Conduct as set out in the Investigating Officer's report.

**22. If the Member has not Failed to Follow the Code of Conduct**

If the Determination Hearing Sub-Committee determines that the Subject Member has not failed to follow the Code of Conduct in the manner set out in the Investigating Officer's report:

- The Chairman will announce the Determination Hearing Sub-Committee's decision that the Subject Member has not failed to follow the Code of Conduct in respect of the alleged matter. The Chairman will then move on to make any other announcements (if applicable) as follows.
- If the Determination Hearing Sub-Committee apprehends, from the evidence which they have received during the hearing, that the Subject Member has failed to comply with the Code of Conduct (other than the matter which the Determination Hearing Sub-Committee has just determined), the Chairman shall outline the Determination Hearing Sub-Committee's concerns and state that the Determination Hearing Sub-Committee has referred this additional or alternative failure to the Monitoring Officer with a view to a further allegation being made to the Assessment Sub-Committee.
- The Chairman should then set out any recommendations which the Determination Hearing Sub-Committee is minded to make to the authority with a view to promoting high standards of conduct among Members and seek the views of the Subject Member, the Investigating Officer and the Legal Adviser before the Determination Hearing Sub-Committee finalises any such recommendations.
- Finally, the Chairman should ask the Subject Member whether he/she wishes the authority not to publish a statement of its finding in a local newspaper.

## **23. Action Consequent upon a Failure to Comply with the Code of Conduct**

The Chairman shall ask the Investigating Officer (if present, or otherwise the Legal Adviser) whether, in his/her opinion, the Subject Member's failure to comply with the Code of Conduct is such that the Determination Hearing Sub-Committee should impose a sanction and, if so, what would be the appropriate sanction.

The Chairman will then ask the Subject Member to respond to the Investigating Officer's advice.

The Chairman will then ensure that each member of the Determination Hearing Sub-Committee is satisfied that he/she has sufficient information to enable him/her to take an informed decision as to whether to impose a sanction and (if appropriate) as to the form of the sanction.

Any member of the Determination Hearing Sub-Committee may address questions to the Investigating Officer or to the Subject Member as necessary to enable him/her to take such an informed decision.

The Chairman should then set out any recommendations which the Determination Hearing Sub-Committee is minded to make to the authority with

a view to promoting high standards of conduct among Members and seek the views of the Subject Member, the Investigating Officer and the Legal Adviser.

The Determination Hearing Sub-Committee shall then retire to another room to consider in private whether to impose a sanction and (where a sanction is to be imposed) what sanction to impose and when that sanction should take effect, and any recommendations which the Determination Hearing Sub-Committee will make to the authority.

At the completion of their consideration, the Determination Hearing Sub-Committee shall return to the main hearing room and the Chairman shall state the Determination Hearing Sub-Committee's decisions as to whether to impose a sanction and (when a sanction is to be imposed) the nature of that sanction, and when it should take effect, together with the principal reasons for these decisions, and any recommendations which the Determination Hearing Sub-Committee will make to the authority.

## **24. Sanctions**

The Determination Hearing Sub-Committee can impose one, or any combination, of the following:

- Censure the Subject Member;
- restrict the Subject Member's access to the premises and resources of the relevant authority for up to six months (three months for complaints received by the Board before 8<sup>th</sup> May 2008), ensuring that any restrictions are proportionate to the nature of the breach and do not unduly restrict the Subject Member's ability to perform his or her duties as a Member;
- that the Subject Member to submit a written apology in a form satisfactory to the Standards Committee;
- that the Subject Member to undertake training specified by the Standards Committee;
- that the Subject Member to participate in a conciliation process specified by the Standards Committee;
- suspend, or partially suspend, the Subject Member for up to six months (three months for complaints received by the Board before 8<sup>th</sup> May 2008);
- suspend, or partially suspend, the Subject Member for up to six months (three months for complaints received by the Board before 8<sup>th</sup> May 2008), or until such time as the Member submits a written apology that is accepted by the Standards Committee;
- suspend, or partially suspend, the Subject Member for up to six months (three months for complaints received by the Board before 8<sup>th</sup> May 2008), or until such time as the Subject Member undertakes any training or conciliation ordered by the Determination Hearing Sub-Committee.

Suspension or partial suspension will normally start immediately after the Determination Hearing Sub-Committee has made its decision. However, if

the Determination Hearing Sub-Committee chooses, the sanction may start at any time up to six months following its decision.

The Determination Hearing Sub-Committee should also confirm the consequences, if any, for any allowances the Subject Member may be receiving.

Periods of suspension or partial suspension set by the Determination Hearing Sub-Committee do not count towards the six month limit for absences from authority meetings, after which a member would normally be removed from office under section 85 of the Local Government Act 1972.

Any conciliation process should have an agreed timeframe for resolution. The process may be of an informal or formal nature, involving elements of training and mediation that will lead to an effective and fair conclusion of the matter. Any decisions reached during the process regarding future behaviour of the Subject Member concerned, and measures to prevent a repetition of the circumstances that gave rise to the initial allegation, should be agreed by all parties.

## **25. The Close of the Hearing**

The Determination Hearing Sub-Committee will announce its decision on the day of the hearing and provide the Committee Support Officer with a short written statement of their decision, which the Committee Support Officer will deliver to the Subject Member as soon as practicable after the close of the Hearing.

The Chairman will thank all those present who have contributed to the conduct of the hearing and formally close the hearing.

Following the close of the Hearing, the Committee Support Officer will agree a formal written notice of the Determination Hearing Sub-Committee's determination and the Monitoring Officer shall arrange for the distribution of that notice within two weeks of the close of the hearing, to:

- the Subject Member
- the Complainant
- the Standards Committees of any other authorities concerned
- any Parish/Town Council concerned in the hearing
- the Board

and shall arrange for a summary of the findings and the penalty imposed for breach of the Code of Conduct to be published in one or more newspapers independent of the Council and circulating in the area.

A summary of the decision may also be published on the website of any authorities concerned, and in any other publication if the Determination Hearing Sub-Committee considered it appropriate.



## **26. Appeals**

The Member may appeal against the decision of the Determination Hearing Sub-Committee by writing to the President of the Adjudication Panel for England, ensuring that his/her letter sets out the grounds for such an appeal, includes a statement as to whether or not he/she consents to the appeal being heard by way of written representations, and is received by the President within 21 days of the date of the written notice of decision.

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### **Equalities**

Sevenoaks District Council aims to eliminate discrimination in respect of sex, colour, race, nationality, ethnic groups, regional or national origin, age, marital status, disability, political or religious belief, sexuality or class. The Procedure is free from bias or discrimination and the aim is that those involved in the process are treated fairly and with respect.

