

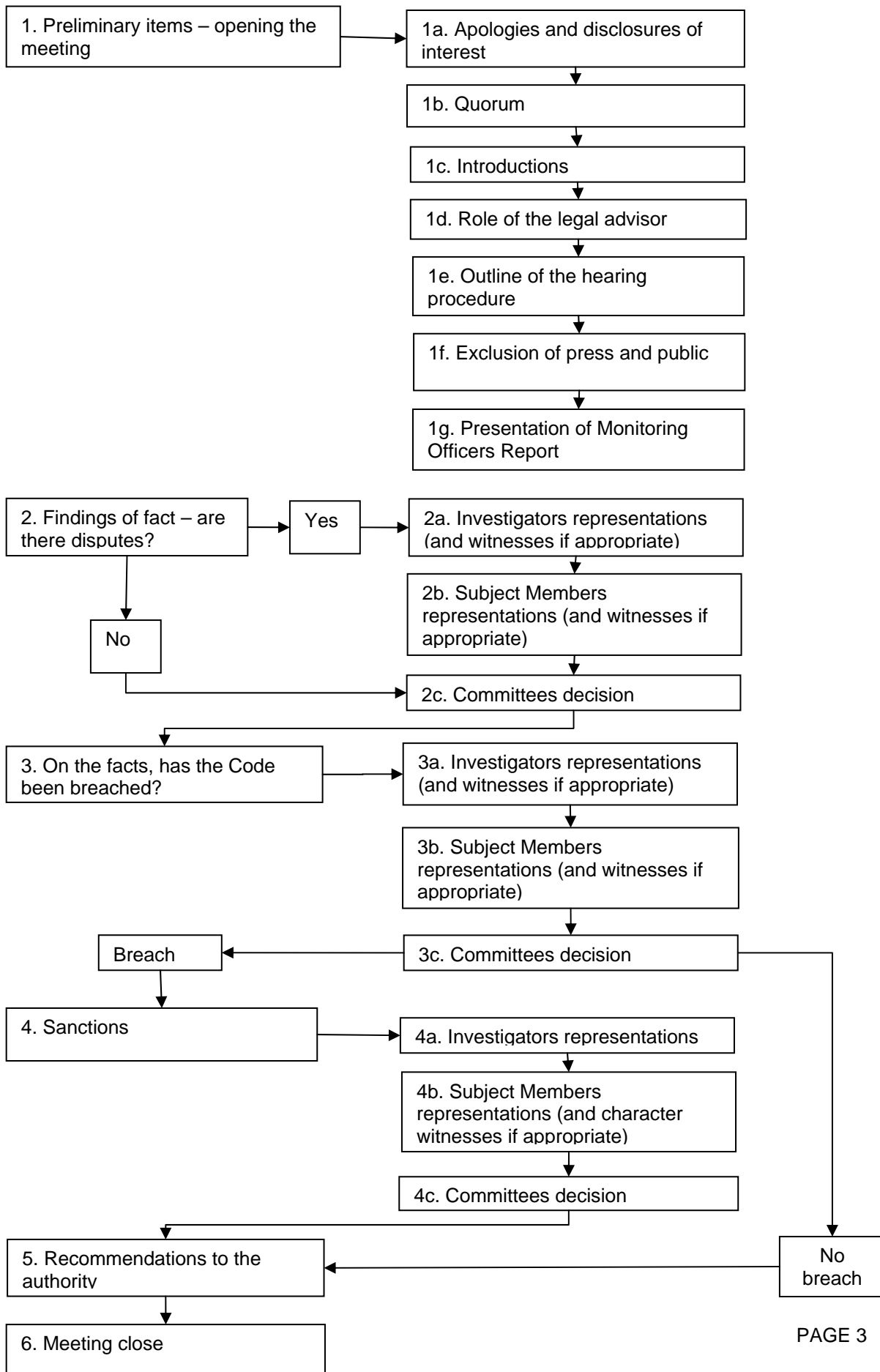
**Milton Keynes Council Standards Committee  
Hearing Procedure**

**Date adopted: 11 February 2010**

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## Flow Chart of the Hearings Process



## **Introduction to Local Standards Committee Hearings**

Both the Councillor who is the subject of a complaint, and the person making the complaint will have been informed if the Assessment Sub-Committee of the Standards Committee has decided that the complaint should be investigated, either by Standards for England, or as a local investigation by the Monitoring Officer of Milton Keynes Council.

Once the Investigating Officer has carried out his investigation, the subject of the complaint and the complainant will receive a copy of the draft report and will have the opportunity to make comments. The Investigating Officer will update his report accordingly and issue the final report. The Investigator's Report may find that;

- There has been a breach of the Code of Conduct
- There has been no breach of the Code of Conduct

### **Consideration Sub Committee meetings**

Once the report has been issued the Standards Committee will form a Consideration Sub-Committee. This Sub-Committee comprises of 3 to 5 members of the Standards Committee and is chaired by an Independent Member of the Standards Committee. If the matter concerns a Parish Councillor, a parish member must also sit on the Consideration Sub-Committee.

The Consideration Sub-Committee papers will remain confidential until the day of the meeting. When the meeting begins the Consideration Sub-Committee will decide whether or not the meeting should be held in public. If the Consideration Sub-Committee decides not to hold the meeting in public then anyone involved in the complaint will have to leave, along with any members of the public or press who have attended.

The purpose of the Consideration Sub-Committee is to receive the Investigating Officer's report and to make a decision as to whether to accept his findings. The Consideration Sub-Committee can decide to;

- Accept a finding of no breach of the Code
- Find that the matter should be considered at a hearing of the Standards Committee
- Find that the matter should be referred to the First-tier Tribunal (Local Government Standards in England) for determination

The last finding can only be made where the Consideration Sub-Committee consider that the action that it could take against the member would be insufficient (with regard to sanction) if they made a finding of failure to follow the Code and where the President of the First-tier Tribunal (Local Government Standards in England) has agreed to accept the case.

If the Consideration Sub-Committee decide that the matter should be heard by Milton Keynes Council Standards Committee then the pre hearing process is started.

## **Pre Hearing Process**

This process is designed to ensure that matters at the hearing are dealt with fairly and efficiently. A letter will be sent to the subject of the complaint, proposing an initial date for the hearing (not normally more than three months after the Consideration Sub-Committee has convened) and forms will also be sent to the Subject Member. These forms will allow the Subject Member to indicate any needs they may have on the day of the hearing, whether they would wish to have the matter heard in private and how many witnesses they would like to call. The pre hearing process is also used to identify disagreements in the evidence presented in the Investigating Officers report, any other evidence the Subject Member wishes the Standards Committee Hearing Sub-Committee to take into account and any factors that the Subject Member believes should be taken into account as mitigation, if they are found to have breached the Code.

After the completed forms are received by the Monitoring Officer, they are then sent to the Investigating Officer for their comments. A meeting is then convened with the Chair of the Hearing. At this stage, the representations from both the Subject Member and the Investigating Officer are considered. The Chair will make decision as to the witnesses to be called, the administrative arrangements to be made and the date of the final hearing.

All of the information submitted during this process assists the formulation of the agenda for the hearing. This agenda and the covering letter are then sent to the Subject Member, the complainant and the witnesses.

At this stage the hearing agenda is confidential. The Hearing Sub-Committee will then make a decision on the day of the hearing as to whether the hearing should be carried out in public or in private. If the hearing is carried out in public, the papers will be made openly available at this stage.

## **Standards Committee Hearings**

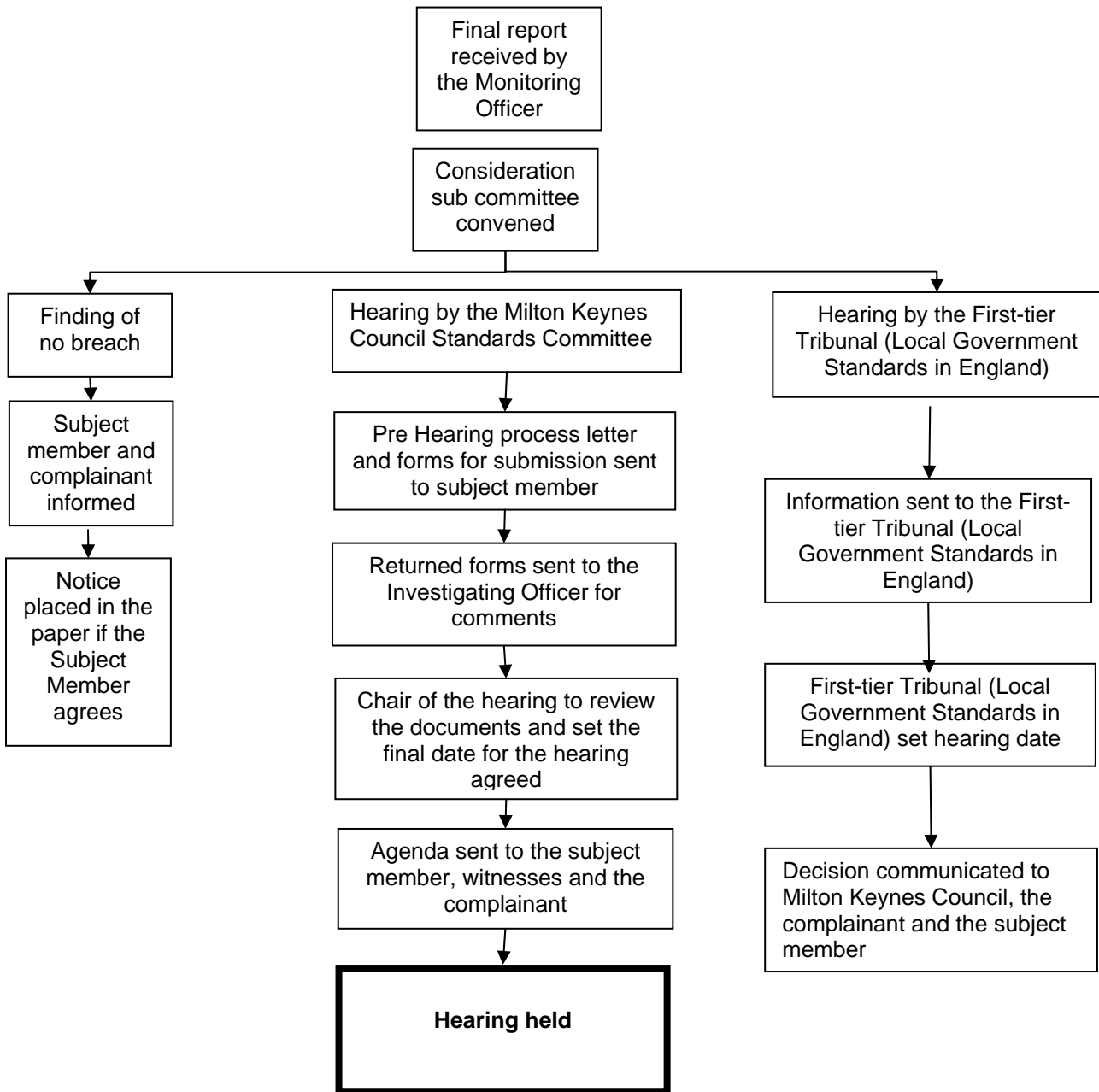
The purpose of the Standards Committee Hearing is to allow the Committee to consider the evidence supplied by both the Subject Member and the Investigating Officer and make a decision as to;

- The findings of fact
- Whether the Subject Member has breached the Code of Conduct and;
- Any sanction if it is found that the Subject Member has breached the Code of Conduct

A flowchart for the meeting can be found on page 1 of this document. The numbered boxes in the flow chart relate to the numbered sections below. In order to hear the matter, a Hearing Sub-Committee is formed. This Committee will comprise of 3-5 members of the Milton Keynes Council Standards Committee, including an Independent Chair and, if the matter is concerned with a Parish Council, one Parish member must also sit on the Hearing Sub-Committee.

If practical, the same people who sat on the Consideration Sub-Committee should also sit on the Hearing Sub-Committee.

## Flow Chart of the Consideration and pre hearings process



## **1. Preliminary Items – opening the meeting**

There are a number of preliminary items which will be considered when the meeting is opened. Some of these items are standard items which are found on Committee agenda's and some are unique to the hearing process

### **1a. Apologies and disclosures of interest**

At the beginning of the meeting the Chair of the hearing will ask for any apologies and will ask members of the Hearing Sub-Committee to disclose the existence and nature of any personal or prejudicial interests which they have in the case, and to withdraw from consideration of the case if so required.

### **1b. Quorum**

The Chair will then check that the meeting is quorate to ensure that the correct members are sitting on the Hearing Sub-Committee before the hearing is commenced.

### **1c. Introductions**

1ci) At the start of the hearing, the Chair will introduce each of the members of the Hearing Sub-Committee, the Member (if present), the Investigator (if present), the legal advisor, the Committee Support Officer and any other officers present.

1cii) The Investigating Officer or the Subject Member may choose to be represented by a solicitor or barrister during the hearing, or with the permission of the Committee, another person. It must be noted that the Member must bear the cost of such representation unless the Standards Committee has agreed to meet all or part of that cost.

### **1d. The role of the Legal Advisor**

The Chair will then explain the role of the Legal Advisor. The Hearing Sub-Committee may take legal advice from its Legal Advisor at any time during the hearing or while they are considering the matters put before them in private. The substance of any legal advice given to the Committee at any stage in the proceedings will be shared with the parties present.

### **1e. Outline of the hearing procedure**

1ei) The Chair will confirm that all present know the procedure which the Hearing Sub-Committee will follow in determining the case. The Chair will remind the Hearing that although this is a formal meeting, it is not judicial and evidence is not given under oath. The standard of proof to be met is on the 'balance of probabilities', as in civil proceedings and not 'beyond all reasonable doubt', as in criminal proceedings. The Chair will then ask the hearing if there are any questions, before continuing.

1eii) At this stage the Hearing Sub-Committee will resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

1eiii) The Chair will consider whether or not there are opportunities for conciliation that would be beneficial to the process. The Chair may agree to vary this procedure in any particular instance where he/she is of the opinion that such a variation is necessary in the interests of fairness.

1eiv) If the Subject Member is not present at the start of the hearing and has not indicated his/her wish to proceed regardless:

- a. The Chair will ask the Monitoring Officer whether the Member has indicated his/her intention not to attend the hearing
- b. The Hearing Sub-Committee will then consider any reasons which the Subject Member has provided for not attending the hearing and will decide whether it is satisfied that there is sufficient reason for a failure to attend
- c. If the Hearing Sub-Committee is satisfied with the reasons it will adjourn the hearing to another date;
- d. If the Hearing Sub-Committee is not satisfied with the reasons, or if the Subject Member has not given any reasons, the Committee will decide whether to consider the case and make a determination in the absence of the Subject Member or adjourn the hearing to another date.

#### **1f. Exclusion of the press and public**

The Chair will ask the Member, the Investigator and the legal adviser to the Committee whether they wish to ask the Hearing Sub-Committee to exclude the Press or public from all or any part of the hearing. If any of them do so request, the Chair will ask them to put forward reasons for so doing and ask for responses from the others and the Committee will then determine whether to exclude the press and public from all or any part of the hearing. Notes on the other issues the Hearing Sub-Committee should take into account are set out at **appendix 2** below.

#### **1g. Presentation of the Monitoring Officers report**

At the end of the preliminary matters, the Monitoring Officer (usually also acting as the legal advisor to the hearing) will present their report. This report will summarise the pre hearing process which has taken place, and outline whether or not the Subject Member has disagreed with any of the findings of fact in the Investigating Officers report.

- a. If the Member admits that he/she has failed to comply with the Code of Conduct in the manner described in the Investigator's report, the Hearing Sub-Committee may then make a determination that the Member has failed to comply with the Code of Conduct in the manner described in the Investigator's report and proceed directly to consider whether any action should be taken
- b. If the Member identifies additional points of difference, the Chair will ask the Member to explain why he/she did not identify these points as part of the pre-hearing process. He/she will then ask the Investigator (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 Hearing Sub-Committee is not satisfied with the 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 Member to challenge the veracity of those findings of fact which are set out in the Investigator's report but which the Member did not identify as a point of difference as part of the pre-hearing process, or it may decide to adjourn the hearing to allow the Investigator and/or any additional witnesses to attend the hearing.

The Monitoring Officer will then ask the Hearing Sub-Committee to endorse the pre hearing directions



# CONDUCTING THE HEARING

## 2. Findings of fact – are there disputes?

### Introduction

This section is concerned with agreeing the findings of fact. Any facts which are disputed by the Subject Member must have been stated during the pre hearing process.

**If the Subject Member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. If the investigator is not present, the committee will consider whether it would be in the public interest to continue in their absence. After considering the member's explanation for not raising the issue at an earlier stage, the committee may then:**

- **Disagree with the Subject Members explanation, accept the facts as they are presented in the Investigating Officers report and continue with step three of the hearing**
- **allow the Subject Member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary**
- **postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if they are not already**

If there is no disagreement about the facts, the Hearing Sub-Committee can move on to the next stage of the hearing; **3. On the facts, has the Code been breached?**

### **2a. Investigators representations (and witnesses if appropriate)**

If there is a disagreement on the findings of fact the Investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the committee's permission, the Investigator may call any necessary supporting witnesses to give evidence. The Hearing Sub-Committee may give the Subject Member an opportunity to challenge any evidence put forward by any witness called by the Investigator.

If the Subject Member disagrees with most of the facts, it may make sense for the investigator to start by making representations on all the relevant facts, instead of discussing each fact individually.

### **2b. Subject Members representations (and witnesses if appropriate)**

The Subject Member should then have the opportunity to make representations to support their version of the facts and, with the Hearing Sub-Committee's permission, to call any necessary witnesses to give evidence.

Both the Subject Member and the Investigating Officer will then have an opportunity to 'sum up' the main points of the argument

**At any time, the Hearing Sub-Committee may question any of the people involved or any witnesses. The Investigator may be given an opportunity to challenge any evidence put forward by witnesses called by the Subject member.**

**2c. Hearing Sub-Committees decision**

The Hearing Sub-Committee will usually move to another room to consider the representations and evidence in private. On their return, the Chair will announce the Hearing Sub-Committee's findings of fact.

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

The Hearing Sub-Committee's function is to make a determination on the findings of fact. It will do this by way of majority voting. It may, at any time, return to the main hearing room in order to seek additional evidence from the Investigator, the Member or a witness, or to seek the legal advice from or on behalf of the Legal Advisor. If it requires any further information, it may adjourn and instruct an officer or request the Member to produce such further evidence to the Hearing Sub-Committee.

### **3. On the facts, has the Code been breached?**

#### **Introduction**

The Hearing Sub-Committee then needs to consider whether, based on the facts it has found, the Subject Member has failed to follow the Code. The Hearing Sub-Committee may, at any time, question anyone involved on any point they raise in their representations.

#### **3a. Investigators representations (and witnesses if appropriate)**

The Hearing Sub-Committee should then consider any representations on whether the Code has been breached from the Investigator.

The Investigating Officer may also, at this point, call witnesses if permission is granted by the Hearing Sub-Committee.

The Subject Member may be given an opportunity to challenge any evidence put forward by any witness called by the Investigator.

#### **3b. Subject Members representations (and witnesses if appropriate)**

The Subject Member will be invited by the Chair to give relevant reasons why the committee should decide that they have not failed to follow the Code.

The Subject Member may, at this point also call witnesses if permission is granted by the Hearing Sub-Committee. The Investigator may be given an opportunity to challenge any evidence put forward by witnesses called by the Subject Member

Both the Subject Member and the Investigating Officer will then have an opportunity to 'sum up' the main points of the argument

#### **3c. Hearing Sub-Committees decision**

At the conclusion of the Member's response, the Chair will ensure that each member of the 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 Investigator's report.

The Hearing Sub-Committee will then move to another room to consider the representations. On their return, the chair will announce the Hearing Sub-Committee's decision as to whether the Subject Member has failed to follow the Code.

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

The Hearing Sub-Committee's function is to make a determination on the whether the Member has breached the Code of Conduct. It will do this by way of majority voting. It may, at any time, return to the main hearing room in order to seek additional evidence from the Investigator, the Member or a witness, or to seek the legal advice from or on behalf of the Legal Advisor. If it requires any further information, it may adjourn and instruct an officer or request the Member to produce such further evidence to the Hearing Sub-Committee.

If the Hearing Sub-Committee decides that the Code has not been breached, it will inform the Subject Member and the Hearing Sub-Committee will then consider recommendations to the Council (section 5)

## **Introduction**

If the Hearing Sub-Committee decide that there has been a breach of the Code of Conduct by the Member concerned, they will then go on to consider sanctions.

The sanctions available to the Hearing Sub-Committee can be found at appendix 3.

### **4a. Investigators representations**

The Hearing Sub-Committee will consider any verbal or written representations from the Investigating Officer as to:

- whether the Hearing Sub-Committee should apply a sanction
- what form any sanction should take

### **4b. Subject Members representations (and character witnesses if appropriate)**

**The Subject Member may introduce agreed character witnesses to make a statement in support of the subject member**

The Hearing Sub-Committee will consider any verbal or written representations from the Subject Member as to:

- whether the Hearing Sub-Committee should apply a sanction
- what form any sanction should take

Both the Subject Member and the Investigating Officer will then have an opportunity to 'sum up' the main points of the argument

### **4c. Hearing Sub-Committees decision**

The Hearing Sub-Committee may question the Investigator and Subject Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.

The Hearing Sub-Committee will then deliberate in private to consider whether to impose a sanction on the Subject Member and, if so, what sanction it should be.

On their return, the chair will announce the Hearing Sub-Committee's decision as to the sanction that the Hearing Sub-Committee will impose.

## **5. Recommendations to the authority**

**Regardless of whether or not the Hearing Sub-Committee find that Subject Member has breached the Code of Conduct, the Hearing Sub-Committee may make recommendations to the authority, with a view to promoting high standards of conduct among Councillors.**

## **6. Close of the meeting**

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

A short written decision will be agreed by the Hearing Sub-Committee and made available on the day of the Hearing.

Within two weeks of the hearing, the Committee Support officer will agree a formal written notice of the Hearing Sub-Committee's determination and the Monitoring Officer will arrange for the distribution and publication of that notice (or a summary of that notice, where required) in accordance with Regulation 20 of the Standards Committee (England) Regulations 2008.

The Member against whom a finding has been made will be informed by the Monitoring Officer of his or her right to apply for permission to appeal to the President of the First-tier Tribunal (Local Government Standards in England).

## Interpretation

- a. 'Subject Member' means the member of the authority who is the subject of the allegation being considered by the Committee, unless stated otherwise. It also includes the Member's nominated representative.
- b. 'Investigator' means the investigating officer who referred the report to the authority, and includes his or her nominated representative. In the case of cases that have been referred for local investigation, references to the investigator mean the person appointed by the Monitoring Officer to undertake that investigation (which may include the Monitoring Officer and his or her nominated representative).
- c. "The Case" is the subject case of the investigator's report.
- d. "The Committee Support Officer" means an officer of the authority responsible for supporting the Committee's discharge of its functions and recording the decisions of the Committee.
- e. The "Consideration Sub-Committee" means a sub-committee of the Milton Keynes Council Standards Committee appointed to consider the Investigator's report
- f. "The Chair" refers to the person presiding at the hearing.
- g. "The Hearing Sub-Committee" means a sub-committee of the Milton Keynes Council Standards Committee appointed to hear the matter.
- h. 'Legal advisor' means the officer responsible for providing legal advice to the Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

## Access to Standards Committee Hearings and Exempt Information

The Standards Board for England recommends that hearings should be held in public where possible to make sure that the hearing process is open and fair. However, there may be some circumstances where parts of the hearing should be held in private.

- 1 At the hearing, the Committee will consider whether or not the public should be excluded from any part of the hearing. If the Committee considers that 'confidential information' is likely to be revealed during the hearing, the Committee must exclude the public by law. 'Confidential information' is defined for these purposes to mean information that has been provided by a Government department under the condition that it must not be revealed, and information that the law or a court order says cannot be revealed.
- 2 The Committee also has the discretion to exclude the public if it considers that 'exempt information' is likely to be revealed during the hearing. The committee should take into account Article 6 of the *European Convention on Human Rights* (see below). The Committee also has a duty to act fairly and within the rules of natural justice.
- 3 Article 6 says that the public may be excluded from all or part of the hearing if it is in the interest of:
  - (i) Morals;
  - (ii) public order;
  - (iii) justice;
  - (iv) national security in a democratic society; or
  - (v) protecting young people under 18 and the private lives of anyone involved.
- 4 There should be a public hearing unless the Committee decides that there is a good reason, which falls within one of the five categories above for the public to be excluded.
- 5 Conflicting rights often have to be balanced against each other. The Committee must act in line with Article 8 of the *European Convention on Human Rights*. Article 8 says that everyone has the right to respect for their private and family life, home and correspondence. It says that no public authority (such as the Committee) may interfere with this right unless it is:-
  - (i) in line with the law; and
  - (ii) necessary in a democratic society in the interests of:
    - (i) national security;
    - (ii) public safety;
    - (iii) the economic well-being of the country;

- (iv) preventing crime or disorder;
- (v) protecting people's health and morals (which would include protecting standards of behaviour in public life); or
- (vi) protecting people's rights and freedoms.

There is a clear public interest in promoting public confidence in the integrity and honesty of public authorities. Therefore the hearing should be held in public unless the Committee decides that protecting the privacy of anyone involved is more important than the need for a public hearing.

- 6 The Committee must also consider Article 10 of the *European Convention on Human Rights*, which sets out the right for people to 'receive and impart information and ideas without interference by public authority'. Any restrictions on this right must be 'prescribed by law and necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary'.
- 7 In relation to people's rights under both Articles 8 and 10 of the *European Convention on Human Rights*, it should be remembered that any interference with or restriction of those rights must be 'necessary' if it meets 'a pressing social need', and any restriction on people's rights must be 'proportionate'.
- 8 The Standards Board for England recommends that a Standards Committee should move to a private room when considering its decisions. We do not consider that this will conflict with the rights under the *European Convention on Human Rights* or the duty to act fairly.
9. Access to information concerning this procedure is governed by the **Standards Committee (England) Regulations 2008, regulation 8(6)**. This applies Schedule 12A of the Local Government Act 1972 to Standards Committees with a number of modifications. These provisions fall under the following descriptions, all of which are subject to the provision that information may only be exempt if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
  1. Information relating to any individual;
  2. Information which is likely to reveal the identity of an individual;
  3. Unless that information is required to be registered under:
    - (i) the Companies Act 1985;
    - (ii) the Friendly Societies Act 1974;
    - (iii) the Friendly Societies Act 1992;
    - (iv) the Industrial and Provident Societies Acts 1965 to 1978;
    - (v) the Building Societies Act 1986; or
    - (vi) the Charities Act 1993,
 information relating to the financial or business affairs of any particular person (including the authority holding that information).



4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority;
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;
6. Information which reveals that the authority proposes:
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime;
- 7(a) Information which is subject to any obligation of confidentiality;
- 7(b) Information which relates in any way to matters concerning national security;
- 7(c) Information presented to a standards committee, or to a sub-committee of a standards committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000.”.

## Sanctions available to the Hearing Committee

The sanctions which are available to the Committee under the Standards Committee (England) Regulations 2008, regulation 19 (3), are any, or any combination, of the following:

- (a) censure of that member;
- (b) restriction for a period not exceeding 6 months of that member's access to the premises of the authority and that member's use of the resources of the authority, provided that those restrictions –
  - (i) are reasonable and proportionate to the nature of the breach; and
  - (ii) do not unduly restrict the person's ability to perform the functions of a member;
- (c) partial suspension of that member for a period not exceeding 6 months;
- (d) suspension of that member for a period not exceeding 6 months
- (e) that the member submits a written apology in a form specified by the standards committee
- (f) that the member undertakes such training as the standards committee specifies
- (g) that the member participate in such conciliation as the standards committee specifies;
- (h) partial suspension of the member for a period not exceeding six months or until such time as the member submits a written apology in a form specified by the standards committee.
- (i) partial suspension of the member for a period not exceeding six months or until such time as the member has undertaken such training or has participated in such conciliation as the standards committee specifies.
- (j) suspension of the member for a period not exceeding six months or until such time as the member submits a written apology in a form specified by the standards committee.
- (k) suspension of the member for a period not exceeding six months or until such time as the member has undertaken such training or has participated in such conciliation as the standards committee specifies

Any sanction imposed will start immediately unless the Committee direct (for any sanction other than censure) that it will start on any date specified by the Committee within six months of the date of the hearing.

The Committee may also make the decision not to impose a sanction on the Subject Member.

## Factors to be taken into Account

In considering the sanction the Committee may take into account the following factors, along with any relevant circumstances;

- What was the Subject Member's intention?
- Did the Subject Member know that they were failing to follow the Code of Conduct?
- Did the Subject Member get advice from officers before the incident? Was that advice acted on or ignored in good faith?
- Has there been a breach of trust?
- Has there been financial impropriety, for example improper expense claims or procedural irregularities?
- What was the result of failing to follow the Code of Conduct?
- What were the potential results of the failure to follow the Code of Conduct?
- How serious was the incident?
- Does the Subject Member accept they were at fault?
- Did the Subject Member apologise to the relevant people?
- Has the Subject Member previously been warned or reprimanded for similar misconduct?
- Has the Subject Member failed to follow the Code of Conduct before?
- How will the sanction be carried out? For example, who will provide the training or mediation?
- Are there any resource or funding implications? For example, if a Subject Member has repeatedly or blatantly misused the authority's information technology resources, the standards committee may consider withdrawing those resources from the Subject Member.

## Mitigating and Aggravating Factors

### Aggravating factors

- Dishonesty.
- Continuing to deny the facts despite clear contrary evidence.
- Seeking unfairly to blame other people
- Failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code.
- Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.

### Mitigating Factors

- An honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice.
- A member's previous record of good service.
- Substantiated evidence that the member's actions have been affected by ill-health.
- Recognition that there has been a failure to follow the Code; co-operation in rectifying the effects of that failure; an apology to affected persons where that is appropriate, self-reporting of the breach by the member.
- Compliance with the Code since the events giving rise to the determination.
- Some actions, which may have involved a breach of the Code, may nevertheless have had some beneficial effect for the public.

The First-tier Tribunal (Local Government Standards in England) also advises the following:

**In deciding what action to take, the Case Tribunal should bear in mind an aim of upholding and improving the standard of conduct expected of members of the various bodies to which the Codes of Conduct apply, as part of the process of fostering public confidence in local democracy.**

**Thus, the action taken by the Case Tribunal should be designed both to discourage or prevent the particular Respondent from any future non-compliance and also to discourage similar action by others.**

**Case Tribunals should take account of the actual consequences which have followed as a result of the member's actions while at the same time bearing in mind what the possible consequences may have been even if they did not come about.**

**This guidance does not include a firm tariff from which to calculate what length of disqualification or suspension should be applied to particular breaches of the Code. Any such tariff would in any event need to have regard to the need to make adjustments toward the lower end of the spectrum if there are mitigating factors and towards the upper end if there are aggravating factors.**