

NORTHAMPTON BOROUGH COUNCIL
PROCEDURE FOR HEARINGS
BEFORE THE STANDARDS COMMITTEE

PART I

Interpretation

1. 'Member' means the member of the Council who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also include the Member's nominated representative.
2. 'Investigator' means the Ethical Standards Officer (ESO) who referred the report to the Council, and includes his or her nominated representative. In the case of matters that have been referred for local investigation, references to the Investigator mean the Monitoring Officer or other investigating officer, and his or her nominated representative.
3. 'Committee' also refers to a Standards sub-committee.
4. 'Legal Advisor' means the officer responsible for providing legal advice to the Standards Committee. This may be the Monitoring Officer, another legally qualified officer of the Council, or someone appointed for this purpose from outside the Council.

Modification of Procedure

5. *The Chairman 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 and to accommodate the individual circumstances*

Representation

6. The Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Committee, another person.

Legal advice

7. The Committee may take legal advice from its Legal Advisor at any time during the hearing or while they are considering the outcome.

Setting the scene

8. After all the Members and everyone involved have been formally introduced, the Chair should explain how the Committee is going to run the hearing.

Preliminary procedural issues

- 9.(a) The Committee should then resolve any issues or disagreements about how the hearing should continue which have not been resolved during the pre-hearing process.

(b) *Proceeding in the absence of the Member.*

If the Member is not present at the start of the hearing:

- (i) *the Chairman shall ask the Monitoring Officer whether the Member has indicated his/her intention not to attend the hearing;*
- (ii) *the Committee shall then consider any reasons which the 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;*
- (iii) *if the Committee is satisfied with such reasons, it shall adjourn the hearing to another date;*
- (iv) *if the Committee is not satisfied with such reasons, or if the Member has not given any such reasons, the Committee shall decide whether to consider the matter and make a determination in the absence of the Member or to adjourn the hearing to another date.*

(c) *Exclusion of Press and Public*

The Chairman shall ask the Member, the Investigator 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. If any of them so request, the Chairman shall ask them to put forward reasons for so doing and ask for responses from the others and the Committee shall then determine whether to exclude the press and public from all or any part of the hearing.

Part II

Disputes on findings of fact

- 10. After dealing with any preliminary issues, the Committee should then move on to consider whether or not there are any significant disagreements about the facts contained in the Investigator's report.
- 11. If there is no disagreement about the facts, the Committee can move on to the next stage of the hearing. (Paragraph 20)
- 12. If there is a disagreement, 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 Committee may at its election give the Member an opportunity to challenge *through the Chairman* any evidence put forward by any witness called by the Investigator.
- 13. The Member will then have the opportunity to make representations to support his or her version of the facts and, with the Committee's permission, call any necessary witnesses to give evidence.
- 14. At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the Investigator *through the Chairman* to challenge any evidence put forward by witnesses called by the Member.

15. If the Member disagrees with most of the facts, it may be appropriate for the Investigator to start by making representations on all the relevant facts, instead of discussing each fact individually.
16. If the Member disagrees with any relevant fact in the Investigator's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the Investigator is not present, the Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then:
 - a) continue with the hearing, relying on the information in the Investigator's report
 - b) allow the Member to make representations about the issue, and invite the Investigator to respond and call any witnesses, as necessary; or
 - c) postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigator to be present if he or she is not already.
17.
 - (i) *The Committee shall be entitled to refuse to hear evidence from the Investigator, the Member or a witness unless they are satisfied that the witness is 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.*
 - (ii) *Any member of the Committee may address questions to the Investigator, to the Member or to any witness.*
18. The Committee will usually adjourn or move to another room to consider the representations and evidence in private.
19. On their return, the Chairman will announce the Committee's findings of fact.

Part III

Did the Member fail to follow the Code?

20. Unless the Member admits to a breach of the Code, the Committee then will consider whether or not, based on the facts it has found, the Member has failed to follow the Code of Conduct.
21. The Member should be invited to give relevant reasons why the Committee should not decide that he or she has failed to follow the Code.
22. The Committee will then consider any verbal or written representations from the Investigator.
23. The Committee may, at any time, question anyone involved on any point they raise in their representations.
24. The Member will be invited to make any final relevant points.
25. The Committee will then adjourn and if appropriate move to another room to consider the representations.

26. On their return, the Chair will announce the Committee's decision as to whether or not the Member has failed to follow the Code of Conduct.

If the Member has not failed to follow the Code of Conduct

27. If the Committee decides that the Member has not failed to follow the Code of Conduct, the Committee may, if it considers it appropriate, consider whether it should make any general recommendations to the Council.

If the Member has failed to follow the Code

28. If the Committee decides that the Member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the Investigator and the Member as to:
 - a) whether or not the Committee should set a penalty; and
 - b) what form any penalty should take.
29. The Committee may question the Investigator and Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.
30. The Committee will then adjourn privately to consider whether or not to impose a penalty on the Member and, if so, what the penalty should be.
31. The Chair will then announce the Committee's decision.

Recommendations to the Council

32. After considering any verbal or written representations from the Investigator, the Committee may then consider whether there is any need to make any general recommendations to the Council, with a view to promoting high standards of conduct among Members.

The written decision

33. The Committee will announce its decision on the day and provide a short written decision as soon as possible thereafter.