

## **LANCASTER CITY COUNCIL STANDARDS COMMITTEE**

### **HEARING PROCEDURE**

1. The Chairman may agree to vary this procedure in any particular instance where he/she is of the opinion that such variation is necessary in the interests of fairness.
2. The Subject Member may be represented or accompanied during the meeting by a solicitor or barrister, or with the permission of the Sub-Committee, another person. It is the responsibility of the Subject Member to arrange any representation.
3. The Sub-Committee may take legal advice from its legal adviser at any time during the hearing or during its deliberations. The substance of any advice given to the Sub-Committee will be shared with the Subject Member and Investigating Officer if they are present at the hearing.
4. At the start of the hearing, the Chairman shall introduce each of the members of the Sub-Committee, the Subject member (if present), the Investigating Officer (if present) and any other officers present, and shall then explain the procedure which the Sub-Committee will follow in the conduct of the hearing.
5. The Sub-Committee shall then confirm that it is quorate, and deal with any disclosures of interests.
6. If the Subject Member is not present at the start of the hearing:
  - The Chairman will ask the Monitoring Officer/Legal Adviser whether the Subject Member has indicated his/her intention not to attend the hearing
  - The Sub-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 Sub-Committee is satisfied with such reasons, it shall adjourn the hearing to another date
  - If the Sub-Committee is not satisfied with such reasons, or if the Subject Member has not given any such reasons, the Sub-Committee shall 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.
7. After the preliminary procedures, the Sub-Committee will consider whether or not there are any significant disagreements about the facts contained in the Investigating Officer's report.
8. If there is disagreement, the Investigating Officer will present the evidence which is relevant to the facts in dispute. With the permission of the Sub-Committee, witnesses can be called to give relevant evidence. The Subject Member and the Sub-Committee members may ask questions of the Investigating Officer or any witness.
9. The Subject Member or his/her representative will then present the evidence that is relevant to the facts in dispute. With the permission of the Sub-Committee, witnesses can be called to give relevant evidence. The Investigating Officer and the Sub-Committee members may ask questions of the Subject Member or any witnesses.

10. If the Subject Member disagrees with any relevant fact in the report without having given prior notice, he or she must give good reasons for not mentioning it before the hearing. After considering the Subject Member's explanation, the Sub-Committee may continue with the hearing, relying on the information in the report, may allow the Subject member to make representations about the issue and invite the Investigating Officer to respond and call any witnesses as necessary, or may postpone the hearing to arrange for appropriate witnesses to be present.
11. The Sub-Committee will consider in private all the evidence which it has heard in order to establish its findings of fact, and to reach a conclusion as to whether there has been a failure to comply with the Code of Conduct. **Depending on the complexity of the case, this may be done in two stages, with the Sub-Committee first hearing evidence and making findings of fact, and then hearing representations as to whether, on those facts, there has been a failure to comply with the Code of Conduct and making a finding on that issue.**
12. At any stage in the consideration of the matter, the Sub-Committee may return to ask further questions of the Investigating Officer or the Subject Member or seek further information. The other party will be given an opportunity to comment upon the questions asked or the responses made.
13. At the conclusion of the Sub-Committee's deliberations, the Chairman will advise the Subject member and the Investigating Officer of their findings.
14. If the Sub-Committee concludes that the Subject Member has failed to comply with the Code of Conduct, the Chairman will invite representations from the Investigating Officer and the Subject Member as to what action, if any, it should take. The Sub-Committee may ask questions of the Subject Member and the Investigating Officer. The Subject Member will be invited to make any final relevant points.
15. The Sub-Committee shall then consider in private whether to impose a sanction, and, if so, what sanction to impose and when that sanction should take effect.
16. The sanctions open to the Sub-Committee are:
  - censure of the Subject Member
  - restriction for a period not exceeding six months of the Subject Member's access to the premises of the authority or use of the resources of the authority, provided that those restrictions are reasonable and proportionate to the nature of the breach and do not unduly restrict the person's ability to perform the functions of a member
  - partial suspension of the Subject Member for a period not exceeding six months;
  - suspension of the Subject Member for a period not exceeding six months
  - that the Subject Member submits a written apology in a form specified by the Sub-Committee
  - that the Subject Member undertakes such training as the Sub-Committee specifies
  - partial suspension of the Subject Member for a period not exceeding six months or until such time as the Subject Member submits a written apology in a form specified by the Sub-Committee

- partial suspension of the Subject Member for a period not exceeding six months or until such time as the Subject Member has undertaken such training or has participated in such conciliation as the Sub-Committee specifies
  - suspension of the Subject Member for a period not exceeding six months or until such time as the Subject Member has submitted a written apology in a form specified by the Sub-Committee
  - suspension of the Subject Member for a period not exceeding six months or until such time as the Subject Member has undertaken such training or has participated in such conciliation as the Sub-Committee specifies
  - any combination of the above sanctions
17. Any sanction imposed by the Sub-Committee shall commence immediately unless the Sub-Committee directs that a sanction shall commence on another date within six months from the imposition of the sanction.
18. In deciding to impose a sanction, the Sub-Committee shall consider all the relevant circumstances and shall have regard to any relevant Guidance issued by Standards for England.
19. The Chairman will announce the decision of the Sub-Committee. Written notice of the findings of the Sub-Committee will be given as soon as is reasonably practicable to the Subject Member, Standards for England, the Standards Committee of any other authority concerned, any parish council concerned, and any person who made an allegation that gave rise to the investigation. Public notices shall be given in accordance with the Regulations.
20. Where the Sub-Committee determines that the Subject Member has failed to comply with the Code of Conduct, the Chairman shall inform the Subject Member of the right to seek permission to appeal against the Sub-Committee's finding or any sanction imposed by sending a notice in writing to the First-tier Tribunal (Local Government Standards in England) Tribunal Service, York House, 31-36 York Place, Leeds LS1 2ED within 21 days of receipt of the written notice of findings.
21. The Sub-Committee may consider making any recommendations to the authority concerned with a view to promoting higher standards of conduct among its members.