

STANDARDS COMMITTEE

INVESTIGATION AND PRE-HEARING PROCEDURE FOR CASES REFERRED BY THE ETHICAL STANDARDS OFFICER FOR LOCAL DETERMINATION

Investigation

1. When an allegation is referred to the Monitoring Officer by an Ethical Standards Officer (ESO) for investigation, the Monitoring Officer will inform the member who is the subject of the allegation of failure to comply with the code of conduct, ("the Member"), the person who made the allegation ("the Complainant"), and the clerk to any parish council concerned.
2. The Monitoring Officer will explain to the Member, to the complainant and to the clerk of the parish council (if relevant) what will happen next, and the Monitoring Officer will give any directions he wishes to make regarding the forthcoming investigation.
3. The Monitoring Officer, on receiving the referral from the ESO, will consider whether it is appropriate for him to conduct the investigation himself or whether it is appropriate to delegate this task to the Deputy Monitoring Officer or to another officer. In considering this, the Monitoring Officer will be mindful of any possible conflicts of interest, and will take account of any Guidance published by the Standards Board for England.
4. The Monitoring Officer will inform Members of the Standards Committee in writing that an investigation is being carried out, but without disclosing the identity of the Member, the complainant, or any details of the allegation.
5. The investigation will then be carried out by the Monitoring Officer or another officer so delegated. The officer conducting the investigation will take account of any Guidance published by the Standards Board on the conduct of investigations. For ease of reference the terminology in this procedure document assumes that the investigation will be carried out by the Monitoring Officer.
6. Statements will be prepared and agreed with each person interviewed during an investigation, including the Member. The Member will be advised that he/she may be accompanied by a professional representative or advisor, a Group colleague or friend during the interview. Any other person interviewed may be accompanied by a friend or representative if they so wish.
7. In accordance with the Regulations, the Monitoring Officer may at any time request the ESO to take the case back.
8. The Monitoring Officer will endeavour to complete the investigation within a reasonable period of time according to the nature of the complaint and the extent of the investigation.
9. The Monitoring Officer, having concluded the investigation, will consider whether to produce a draft report before the final report. A draft report may be appropriate where the facts are complex or ambiguous, or where the facts are disputed. Any draft report will be issued to key parties to the investigation for review and comment, and will indicate that it does not necessarily represent the Monitoring Officer's final finding.

10. If the Monitoring Officer issues a draft report, he will consider whether the responses reveal a need for further investigation or for changes to the report. In some complex cases, the Monitoring Officer may wish to issue a second draft report before the final report.
11. Once satisfied that the investigation is concluded, the Monitoring Officer will prepare a final report. This will be sent to the member who is the subject of the allegation, the complainant, the clerk of any relevant parish council, the ESO who referred the matter for investigation, and the Standards Committee.
12. The finding in the final report will be either that the Monitoring Officer considers that there has been a failure to comply with the Code of Conduct (“a finding of failure”) or that the Monitoring Officer does not consider that there has been a failure to comply with the Code (“a finding of no failure”)

Finding of “no failure”

13. If the Monitoring Officer finds that there has been no failure to comply with the Code of Conduct, the Standards Committee must decide at a meeting whether it agrees with that finding. The Standards Committee will consider the report only, and will not hear evidence or representations.
14. If the Standards Committee agrees that there has been no breach of the Code of Conduct, the Monitoring Officer will arrange for notice to that effect to be given to the relevant parties, and to be published in a local newspaper, unless the Member requests that it not be so published.
15. If the Standards Committee does not accept the finding of no failure, but considers that there is a case to answer, the matter will proceed to a hearing.

Finding of “failure”

16. If the Monitoring Officer has found that there has been a failure to comply with the Code of Conduct, the matter will proceed to a hearing.

Pre-hearing

17. In the event of a finding by the Monitoring Officer of failure to comply with the Code of Conduct, or a finding of the Standards Committee that there is a case to answer, the membership of the Committee to hear the matter will be selected.
18. The Member will be asked for a written response, within fifteen working days, which response shall set out the Member’s reply to the Monitoring Officer’s report and state whether or not he/she:
 - disagrees with any of the findings of fact in the report, giving the reasons for any disagreement;
 - wants to be represented, at his/her own expense, at the hearing by a solicitor, barrister or any other person;
 - wants to give evidence to the Committee, either verbally or in writing;

- wants to call relevant witnesses to give evidence to the Committee;
- wants any part of the hearing to be held in private;
- wants any part of the Monitoring Officer's report or other relevant documents to be withheld from the public.

Pro formas will be provided for this response in the same way as for matters that have been investigated by an ESO and referred for local determination.

19. The Member shall be informed that if, at the meeting of the Committee, he/she seeks to dispute any matter contained in the Monitoring Officer's report without having previously notified the intention to do so, the Committee may refuse to allow the disputed matter to be raised unless satisfied that there are good reasons why it has not been raised beforehand.
20. Upon receipt of the Member's response, the Monitoring Officer shall be invited to comment on it within ten working days, and to say whether or not he/she:
 - wants to call relevant witnesses to give evidence or submit written or other evidence to the Committee;
 - wants any part of the hearing to be held in private;
 - wants any part of the report or other relevant documents to be withheld from the public.
21. Upon receipt of the Monitoring Officer's response, the Chairman of the Committee and the legal advisor will consider the responses of the Member and the Monitoring Officer and set a date for the hearing in consultation with the Chairman and members.
22. The Member and the Monitoring Officer are entitled to request that any witnesses they want should be called. However, the Chairman of the hearing may limit the number of witnesses to be called, if he/she believes the number requested is unreasonable and that some witnesses will simply be repeating the evidence of earlier witnesses, or else not providing evidence that will assist the Committee to reach its decision.
23. Nothing in this procedure shall limit the Chairman of the hearing from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Committee to reach its decision.
24. The Legal Advisor, in consultation with the Chairman, will:
 - confirm a date, time and place for the hearing, which must be within three months from the date on which the Monitoring Officer's report was completed and not less than fourteen days after the Monitoring Officer sent the report to the Member;
 - confirm the main facts of the case that are agreed;
 - confirm the main facts that are not agreed;

- provide copies of any written evidence to the relevant parties;
- confirm which witnesses will be called by the parties;
- provide the parties with a copy of the proposed procedure for the hearing, specifying which parts of the matter, if any, may be considered in private; and

in conjunction with Administration Services ensure the appropriate information, with the Agenda, is provided to everyone involved in the hearing at least five working days before the proposed date of the hearing