

Standards Board Panel

Procedure for Local Standard Hearings

1. Interpretation

- a) 'Member' means the member of the authority who is the subject of the allegation being considered by the Standards Board Panel, unless stated otherwise. It also includes the member's nominated representative.
- b) 'Investigator' means the Ethical Standards Officer (ESO) who referred the report to the authority, and includes his nominated representative. In the case of matters 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 nominated representative).
- c) 'The Matter' is the subject matter of the investigator's report.
- d) 'The Panel' refers to the Standards Board Panel to which the Standards Committee has delegated the conduct of the hearing.
- e) 'The Committee Support Officer' means an officer of the authority responsible for supporting the Standards Board Panel discharge of its functions and recording the decisions of the Standards Board Panel.
- f) 'Legal advisor' means the officer responsible for providing legal advice to the Standards Board Panel. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.
- g) 'The Chairman' refers to the person presiding at the hearing.

2. Modification of Procedure

The Chairman may agree to vary this procedure in any particular instance where he is of the opinion that such a variation is necessary in the interests of fairness.

3. Representation

The member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Standards Board Panel, another person.

4. Legal Advice

The Standards Board Panel may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome.

5. Setting the Scene

At the start of the hearing, the Chairman shall introduce each of the members of the Standards Board Panel, the member (if present), the investigator (if present) and any other officers present, and shall then explain the procedure which the Panel will follow in the conduct of the hearing.

6. Preliminary Procedural issues

The Panel shall then deal with the following preliminary procedural matters in the following order:

a) Disclosures of interest

The Chairman shall ask members of the Standards Board Panel 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.

b) Quorum

The Chairman shall confirm that the Standards Board Panel is quorate.

c) Hearing procedure

The Chairman shall confirm that all present know the procedure which the Standards Board Panel will follow in determining the matter.

d) 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 intention not to attend the hearing;
- ii) the Standards Board Panel 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 Standards Board Panel is satisfied with such reasons, it shall adjourn the hearing to another date;
- iv) if the Standards Board Panel is not satisfied with such reasons, or if the member has not given any such reasons, the Standards Board

Panel 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.

e) Exclusion of Press and Public

The Chairman shall ask the member, the investigator and the legal adviser to the Standards Board Panel whether they wish to ask the Panel 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 Standards Board Panel shall then determine whether to exclude the press and public from all or any part of the hearing.

7. A Failure to Comply with the Code of Conduct?

The Standards Board Panel will then address the issue of whether the member failed to comply with the Code of Conduct in the manner set out in the investigator's report.

a) The Pre-Hearing Process Summary

The Chairman will ask the legal advisor or the Committee Support Officer to present his report, highlighting any points of difference in respect of which the member has stated that he disagrees with any finding of fact in the investigator's report. The Chairman will then ask the member to confirm that this is an accurate summary of the issues and ask then member to identify any additional points upon which he disagrees with any finding of fact in the investigator's report.

- i) If the member admits that he has failed to comply with the Code of Conduct in the manner described in the investigator's report, the Panel 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.
- ii) If the member identifies additional points of difference, the Chairman shall ask the member to explain why he did not identify these points as part of the pre-hearing process. He shall then ask the Investigator (if present) whether he 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 Standards Board Panel 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 in respect of which the 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 Investigator and/or any additional witnesses to attend the hearing.

b) Presenting the Investigator's Report

- i) If the investigator is present, the Chairman will then ask the investigator to present his report, having particular regard to any points of difference identified by the member and why he concluded, on the basis of his findings of fact, that the member had failed to comply with the Code of Conduct. The investigator may call witnesses as necessary to address any points of difference.
- ii) If the investigator is not present, the Standards Board Panel 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 investigator. In the absence of the investigator, the Standards Board Panel 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 investigator's report and ask the witness to confirm or correct the report and to provide any relevant evidence.
- iii) No cross-examination shall be permitted but, at the conclusion of the investigator's report and/or of the evidence of each witness, the Chairman shall ask the member if there any matters upon which the Standards Board Panel should seek the advice of the investigator or the witness.

c) The Member's Response

- i) The Chairman shall then invite the member to respond to the investigator's report and to call any witnesses as necessary to address any points of difference.
- ii) No cross-examination shall be permitted but, at the conclusion of the member's evidence and/or of the evidence of each witness, the Chairman shall ask the investigator if there are any matters upon which the Standards Board Panel should seek the advice of the member or the witness.

d) Witnesses

- i) The Standards Board Panel 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 Standards Board Panel may address questions to the investigator, to the member or to any witness.
- e) Determination as to whether there was a failure to comply with the Code of Conduct
 - i) At the conclusion of the member's response, the Chairman shall ensure that each member of the Standards Board Panel is satisfied that he has sufficient information to enable him to determine whether there has been a failure to comply with the code of conduct as set out in the investigator's report.
 - ii) Unless the determination merely confirms the member's admission of a failure to comply with the Code of Conduct (as set out in Paragraph v(a)(i) above), the Standards Board Panel shall then consider in private whether the member did fail to comply with the Code of Conduct as set out in the investigator's report.
 - iii) The Standards Board Panel shall take its decision on the balance of probability based on the evidence which it has received at the hearing.
 - iv) The Standards Board Panel 's function is to make a determination on the matter. It may, at any time, seek additional evidence from the investigator, the member or a witness, or 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 member to produce such further evidence to the Standards Board Panel.
 - v) At the conclusion of the Standards Board Panel's consideration, the Standards Board Panel shall consider whether it is minded to make any recommendations to the authority with a view to promoting high standards of conduct among members.
 - vi) The Standards Board Panel shall then recommence the hearing and the Chairman will state the Standards Board Panel's principal findings of fact and their determination as to whether the member failed to comply with the Code of Conduct as set out in the investigator's report.
- f) If the Member has not failed to follow the Code of Conduct

If the Panel determines that the member has not failed to follow the Code of Conduct in the manner set out in the investigator's report, the Chairman should set out any recommendations which the Panel is minded to make to the authority with a view to promoting high standards of conduct among members and seek the views of the member, the investigator and the legal advisor before the Panel finalises any such recommendations.

- g) If the Member has failed to follow the Code

If the Panel determines that the member has failed to comply with the Code of Conduct in the manner set out in the investigator's report, it will then proceed to consider whether it should impose any sanction in respect of the member and what (if any) would be the appropriate sanction to impose.

8. Action Consequent upon a Failure to Comply with the Code of Conduct

- a) The Chairman shall ask the investigator (if present, or otherwise the legal advisor) whether he wishes to make representations as to the imposition of a sanction.
- b) The Chairman will then ask the Member if he wishes to make representation as to the imposition of a sanction.
- c) The Chairman will then ensure that each member of the Standards Board Panel is satisfied that he 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.
- d) Any member of the Standards Board Panel may address questions to the investigator or to the member as necessary to enable him to take such an informed decision.
- e) The Chairman should then set out any recommendations which the Standards Board Panel is minded to make to the authority with a view to promoting high standards of conduct among members and seek the views of the member, the investigator and the legal advisor.
- f) The Standards Board Panel shall then retire to another room to consider in private whether to impose a sanction, (where a sanction is to be imposed) what sanction to impose and when that sanction should take effect, and any recommendations which the Standards Board Panel will make to the authority.
- g) When the hearing recommences, the Chairman shall state the Standards Board Panel's decisions as to whether to impose a sanction and (where a sanction is to be imposed) the nature of that sanction, and when it should take effect, together with the principal reasons for those decisions, and any recommendations which the Standards Board Panel will make to the authority.

9. The Close of the Hearing

- a) The Standards Board Panel 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 member as soon as practicable after the close of the hearing.

- b) The Chairman will thank all those present who have contributed to the conduct of the hearing and formally close the hearing.
- c) Following the close of the hearing, the Committee Support officer will agree a formal written notice of the Standards Board Panel's determination and the Monitoring Officer shall arrange for the distribution and publication of that notice (or a summary of that notice, where required) in accordance with Regulation 8 of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003.