

Hearing Procedure

Interpretation

1. 'Member' means the person who is the subject of the allegation being considered by the Committee, unless stated otherwise. It also includes the Member's nominated representative.
2. 'Investigating Officer' means the Monitoring Officer, and/or the person appointed by the Monitoring Officer to undertake that investigation (which may include the Monitoring Officer) and his or her nominated representative.
3. 'Committee' means the Standards Committee of Northumberland County Council's.
4. 'Legal advisor' means the officer responsible for providing legal advice to the Committee. This may be the Monitoring Officer, if legally qualified, another legally qualified officer of the Authority, or someone appointed for this purpose from outside the Authority.
5. 'Code of Conduct' means Northumberland County Council's Code of Conduct for Elected Members and, in the case of Parish or Town Councillors, the Code of Conduct for Members applying to the relevant Town or County Council.
6. 'Reporting Officer' means the officer appointed by the Monitoring Officer to report on the allegation at any hearing.

Pre-Hearing Process

7. Prior to the hearing the Monitoring Officer will conduct a 'pre-hearing process' requiring the elected member to give their response to the investigator's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing.
8. The Monitoring Officer in consultation with the Chair will give directions as to the manner in which the hearing will be conducted. Where possible the pre-hearing process will be carried out in writing. However, where appropriate the Monitoring Officer may hold a pre-hearing meeting between the relevant parties, their representatives, and the Chair.
9. A pre-hearing summary of the process will be sent to all parties at least two weeks prior to the hearing which will include:
 - (a) The hearing process to be followed;
 - (b) A report summarising the allegation, including the investigation report and any supporting documentation submitted by the parties as an agreed consolidated hearing bundle;
 - (c) A list of witnesses attending to give evidence.

Representation

10. 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

11. The Committee may take legal advice, in private, if necessary, from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with the Member, the Reporting Officer and the Investigating Officer if they are present.

Non attendance by the Member

12. If the Member does not attend the hearing, the Committee may consider the Investigating Officer's report in the Member's absence. If the Committee is satisfied with the Member's reason for not being able to attend the hearing, it may arrange for the hearing to be held on another date. Where the Committee proceeds in the Member's absence, this procedure shall be adapted as necessary, giving any representative of the Member who is present such rights as would have been given to the Member.

Setting the scene

13. After everyone involved in the hearing have been formally introduced, the Chair should explain how the Committee is going to conduct the hearing.

Preliminary procedural issues

14. 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.

Making findings of fact

15. After dealing with any preliminary issues, the Committee should then move on to consider whether there are any significant disagreements about the facts contained in the Investigating Officer's report.
16. If there is no disagreement about the facts, the Committee can move on to the next stage of the hearing.
17. If there is a disagreement, the Reporting Officer and/or the Investigating Officer, 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 Reporting Officer and/or the Investigating Officer may call any necessary supporting witnesses to give evidence. The Committee may give the Member an opportunity to challenge any evidence put forward by any witness called by the Reporting Officer and/or the Investigating Officer by the cross-examination of the witness either directly by the Member (or his/her representative) or through the Chair.
18. The Member should then have the opportunity to make representations to support their version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence.
19. At any time, the Committee may question any of the people involved or any of the witnesses and may allow the Reporting Officer and/or the Investigating Officer to challenge any evidence put forward by witnesses called by the Member.

20. If the Member disagrees with most of the facts, it may make sense for the Reporting Officer and/or the Investigating Officer to start by making representations on all the relevant facts, instead of discussing each fact individually.
21. If the Member disagrees with any relevant fact in the Investigating Officer's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. If the Investigating Officer 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 and any comments of the Reporting Officer, the Committee may then:

- (a) continue with the hearing, relying on the information in the Investigating Officer's report;
 - (b) allow the Member to make representations about the issue, and invite the Reporting Officer and/or the Investigating Officer to respond and call any witnesses, as necessary;
 - (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present if they are not already.
22. The Committee will usually move to another room to consider the representations and evidence in private.
 23. On their return, the Chair will announce the Committee's findings of fact.

Did the Member fail to follow the Code of Conduct?

24. The Committee then needs to consider whether, based on the facts it has found, and with the benefit of any advice from the Independent Person, the Member has failed to follow the Code of Conduct.
25. The Member should be invited to give relevant reasons why the Committee should decide that they have not failed to follow the Code of Conduct.
26. The Committee should then consider any verbal or written representations from the Reporting Officer and/or the Investigating Officer.
27. The Committee may, at any time, question anyone involved on any point they raise on their representations.
28. The Member should be invited to make any final relevant points.
29. The Committee, together with the Independent Person, will then move to another room to consider the representations.
30. On their return, the Chair will announce the Committee's decision as to whether the Member has failed to follow the Code of Conduct.

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

31. If the Committee decides that the Member has not failed to follow the Code of Conduct, the Committee can move on to consider whether it should make any recommendations to the Authority.

If the Member has failed to follow the Code of Conduct

32. 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 Reporting Officer and/or the Investigating Officer and the Member and will consult with the Independent Person as to:
- (d) whether the Committee should apply a sanction;
 - (e) what form any sanction should take.
33. The Committee may question the Reporting Officer and/or the Investigating Officer and Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.
34. The Committee will then deliberate in private to consider whether to impose a sanction on the Member and, if so, what the sanction should be.
35. The sanctions or other actions available to the Committee are set out in Annex 1.
36. On their return, the Chair will announce the Committee's decision.

Recommendations to the Authority

37. After considering any verbal or written representations from the Reporting Officer and/or the Investigating Officer, the Committee will consider whether it should make any recommendations to the Authority, with a view to promoting high standards of conduct among Members.

The written decision

38. The Committee will announce its decision on the day and provide a written decision within three working days.

Further information

39. At any stage prior to the conclusion of the hearing, the Committee may adjourn the hearing (on one occasion only) to require the Monitoring Officer to seek further information or undertake further investigation on any point specified by the Committee.

Annex 1 to Hearing Procedure

Sanctions and other actions

The Council has delegated to the Standards Committee such of its powers as can be delegated to take decision in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions include:

1. Issuing a formal warning letter or, where the matter relates to a Town or Parish Council, recommending the issue of the same to the relevant authority.
2. Issuing a formal censure by the Committee or, where the matter relates to a Town or Parish Council, recommending the issue of the same to the relevant authority.
3. Recommending to full council, or to the Town and Parish Council, the issue of a formal censure by the authority.
4. Referring its findings to Full Council (or to the Town or Parish Council) for information
5. Recommending to Full Council, or to the Town and Parish Council, that the member be removed from any or all Committees or sub-Committees (subject to the approval of the members Group if applicable)
6. Recommending to Full Council, or to the Town and Parish Council, that the member be removed from being the Chair or vice-chair of any Committees or sub-Committees.
7. Recommending to the Leader of the Council that the member be removed from the Cabinet or removed from particular Portfolio responsibilities.
8. Recommending to Full Council, or to the Town and Parish Council, that the member be removed from all outside appointments to which s/he has been appointed or nominated by the authority.
9. Instructing the Monitoring Officer to (or recommend that the Town or Parish Council) arrange training for the Member.
10. Recommending the withdrawal of facilities provided to the member by the Council, such as a computer, website and/or email and internet access.
11. Recommending the exclusion of the member from council offices or other premises with the exception of meeting rooms as necessary for attending Council, Committee or Sub-committee meetings