

Standards Committee

Procedure Rules

Membership

The Standards Committee will be composed of:

8 members of the Council

4 independent members

2 parish council members

and may not include more than one member of the Executive, who shall not be the Executive Leader.

Where possible there will also be 2 fully trained substitute parish council members

Political groups on Cherwell District Council shall be entitled to the same number of named substitute members as they have places on the committee.

The Chairman and Vice-Chairman of the Committee will be independent members.

Independent members of the committee will be appointed initially for a period of three years and may only serve a maximum of eight years on the committee.

Quorum

The Quorum for the Committee is 3 members including at least one independent member.

For the conduct of business relating to Parish Councils at least one parish member of the Committee must be present.

Urgency

The Monitoring Officer in consultation with the Chairman may grant urgent dispensations to members where a meeting of the Standards Committee has not been arranged. Dispensation may be granted to members to attend meetings where they would otherwise be excluded because they have a prejudicial interest. This can happen when more than 50% of the council or a committee would be prevented from taking part in a meeting because of prejudicial interests, or when political balance of the council or committee would be upset.

Local Determination of Complaints

When a complaint relating to a breach of the Code of Conduct by a Member is received by the Monitoring Officer it will initially be assessed by an Assessment Subcommittee.

All new complaints must be considered by the Standard Committee unless the complaint has already been stated and the Monitoring Officer does not believe any new evidence has been presented.

Assessment Subcommittee

The assessment subcommittee will be 3 members of the Standards Committee including at least one independent member and will be chaired by an independent member.

The purpose of the initial assessment subcommittee is to decide if any action should be taken on the complaint. The subcommittee may choose to:

- investigate the complaint or
- take other action, for example, mediation or training

The assessment subcommittee will complete its initial assessment of an allegation within 20 working days of receiving the complaint.

In the event that the assessment subcommittee decides the complaint should be investigated it will refer the matter to the Monitoring Officer. The Monitoring Officer will write to the relevant parties informing them of the decision taken.

If the subcommittee feels there are public interest considerations which make it difficult for the committee to deal with the complaint fairly they may decide to refer the matter to the Standards Board for England for investigation.

Review Subcommittee

A complainant may request a review of the assessment subcommittee's decision if it decides to take no further action. A review subcommittee will be formed to consider the review, but not from the membership of the original assessment subcommittee.

Upon receipt of a review request all relevant parties will be notified. The review subcommittee will complete its assessment of the allegation within 3 months of receiving the review request.

The review subcommittee has the same decision options as the assessment subcommittee.

Notification of subcommittee decisions

A written notice of the decision of the subcommittee will be given to all the relevant parties within 7 working days of the decision being taken.

The written notice will clearly set out the reasons for the decision of the subcommittee.

Hearing Panel

If the assessment subcommittee decide the complaint should be investigated an appropriate officer (investigator) will write an investigation report with one of the following findings:

- there has been a failure to comply with the Code of Conduct
- there has been no failure to comply with the Code of Conduct

The report must be sent to the subject member and referred to the Standards Committee. The Standards Committee will decide whether to accept the Investigator's Report and if necessary set up a hearing to consider the investigation report and decide what further action to take. The Committee will also appoint a Chairman and Vice Chairman of the hearing panel, who will both be independent members.

The hearing must be conducted within three months of the completion of the monitoring officer's report.

Pre-Hearing Process

A prehearing process will take place prior to the hearing to allow the hearing to be dealt with more efficiently and fairly. The prehearing process will determine procedural issues only.

The prehearing process will:

- Identify whether the subject member disagrees with any findings of fact in the investigation report
- Identify whether those disagreements are likely to be relevant to any matter the hearing needs to decide
- Identify whether evidence about those disagreements will need to be heard
- Decide whether any parts of the hearing need to be heard in private
- Decide whether any parts of the investigation report need to be withheld from the public as they contain exempt information

Format

The prehearing process will be undertaken in writing but when necessary a meeting will be held subject to the agreement of the Standards Committee Chairman and all relevant parties.

Subject Member Response

The subject member will be informed in writing of the date of the hearing and asked for a written response, within 7 days, relating to:

- Representation at the hearing – themselves, solicitor, or any other person
- Any disagreements with the findings of the investigation report
- Any witnesses or evidence to be called
- Any parts of the hearing which should be held in private
- If any parts of the report should be withheld from the public
- If they can attend the hearing

The monitoring officer or report author will be invited to comment on the subject member's response within 7 working days of receipt. Relevant parties will be asked to provide outlines or statements of any evidence their witnesses intend to give. Once all relevant parties have provided written responses new disagreements over the findings of the investigations may not be raised unless the Chairman of the Hearing Panel agrees, for example, if new evidence emerges.

Evidence presented to hearing members must be considered before the hearing to identify any potential conflicts of interest. If members of the Hearing Panel have any doubts as to the integrity of the Hearing they should raise with the Monitoring Officer as soon as possible. Standards Committee may invite witnesses they feel may assist in determining the case, this may include the complainant. The Standards Committee does not have the power to order witnesses to attend the hearing.

Prehearing Summary

A pre-hearing summary will be sent to all relevant parties and the Standards Committee/Hearing Subcommittee, 14 days before the hearing, containing

- Date, time and location of the hearing
- A summary of the allegation
- An outline of the main facts of the case
- An outline of any facts which are not agreed by the relevant parties
- Attendees, for example, subject member or representatives and report author
- List of witnesses attending to give evidence

- Hearing procedure note

Hearing Procedure

The hearing should be conducted in a fair, independent and politically impartial way.

If a hearing is established the report must be given to

- The subject member
- The clerk of any relevant parish or town council concerned
- The standards committee of any other relevant authority concerned

The hearing must be conducted at least 14 days after the report has been received by the subject member. It can be sooner if the subject member agrees

Membership

The Hearing Panel will comprise of 5 members of the Standards Committee, the Chairman and Vice Chairman will be independent members. When a parish case is considered at least one of the members of the Panel will be a Parish Representative.

Subject Member Representatives

The subject member may be represented by another person such as a solicitor. If it is a non-legal representative consent must be obtained by the Hearing Panel as part of the pre-hearing process. If the representative is disruptive during the hearing the Committee may withdraw this consent.

Subject Member Attendance

The subject member does not have to be present for the hearing to be heard. In the event that the subject member is not able to attend the hearing, providing the committee are satisfied with the reasons given, the date of the hearing may be re-arranged.

Order of Business

The Chairman will have been appointed by the Standards Committee.

The Chairman shall open the hearing and introduce each of the Members of the Hearing Panel, the subject member if present, the Investigator if present and any other officers present.

The Chairman will confirm all relevant parties have received the Hearing Panel Procedure Note and understand the process the Panel will follow.

If all or any part of the hearing is to be held in private the Chairman will explain the reasons for this and the Panel will exclude the public and press at the appropriate point in the meeting.

The Chairman will ask the Monitoring Officer, or a relevant officer, to present the prehearing report highlighting any points of disagreement of fact which have been identified by the subject member in the prehearing process.

The Chairman will then ask the subject member to confirm that this is an accurate summary of the issues and ask the subject member to identify any additional points of findings of fact that they disagree with in the investigator's report.

- If the subject member admits that they have failed to comply with the code of conduct in the manner described in the investigator's report the Hearing Panel may then make a determination that the Member has failed to comply with the Code of Conduct and proceed directly to consider whether action should be taken.
- The subject member will only be allowed to raise any additional points of difference over factual findings in the investigation report not identified in the pre-hearing process in exceptional circumstances. If the Hearing Panel are not satisfied with the subject member's reasons for failing to identify additional points in the prehearing process they may decide to continue the hearing without allowing the subject member to challenge those findings of fact. If the subject member gives valid reasons for not raising the additional points in the prehearing process the Panel may decide to adjourn the hearing to allow time to deal with those new points.

The Chairman will then ask the Investigator to present their report highlighting the conclusions on the basis of the findings of fact. The investigator may call witnesses as necessary to address any point.

Witnesses may be cross examined by the subject member or their representatives. Members of the panel will be given an opportunity to address relevant questions to the investigator's witnesses.

Any member of the Panel may address relevant questions to the investigator at this point.

The Chairman shall then invite the subject member to respond to the investigator's report and to call any witnesses as necessary to address any points of difference.

Witnesses may be cross examined by the investigator. Members of the panel will be given an opportunity to address relevant questions to the subject member's witnesses.

Any member of the Panel may address relevant questions to the subject member at this point.

The Panel can refuse to hear evidence from any parties if it is not relevant to determining whether there has been a failure to comply with the code of conduct.

At the conclusion of the subject members response the Chairman will confirm with all parties that they have had an opportunity to say everything they wish to say and confirm with the members of the panel that they have sufficient information to enable them to determine whether there has been any failure to comply with the Code of Conduct or not.

The Panel shall then retire to another room to consider in private their decision. The Panel shall decide if a breach of the code of conduct has taken place. If the panel finds that a subject member has failed to follow the code of conduct they may impose one or more of the sanctions identified in the Standards Board Local Standards Framework Guidance.

The panel shall make its decision based on the evidence received at the hearing, in deciding if any sanctions are to be made against a subject member the panel should ensure that the sanction is reasonable and proportionate to the subject member's behaviour.

In making its determination the panel may return to the main hearing room to clarify any points with any relevant parties. Representatives of legal and democratic services will advise members in private.

When the panel have reached a decision they will return to the main hearing room and the Chairman will announce the decision of the panel. The Chairman will then formally close the hearing.

Notice of the Decision

A summary of the decision and reasons for it will be published in at least one local newspaper. Further detail on what the decision notice must contain is available in the Standards Board Local Standards Framework Guidance.

Appeals

The subject member may apply in writing to the President of the Adjudication Panel for England for permission to appeal against the Hearing Panel's findings. Details of the appeal procedure can be obtained from the Adjudication Panel for England's website www.adjudicationpanel.co.uk

Interests

In addition to code of conduct considerations members must not take part in the assessment process if:

- They are the complainant
- Closely associated with the complainant
- A potential victim or witness relating to the complaint
- They are the subject member

Officers may have an interest if they have previously advised the subject member or the complainant and cannot attend or support the investigation of the complaint

Members involved in the assessment and investigations of complaints should not discuss complaints with anyone outside the relevant subcommittee, any discussions should only take place within the formal meetings of the Standards Committee or subcommittees

Definitions

Subject Member – the member the complaint refers to

Relevant parties – the complainant, subject member, standards committees of any other authorities concerned, any parish or town councils concerned and the Standards Board for England.