

ROCHDALE METROPOLITAN BOROUGH COUNCIL

STANDARDS SUB-COMMITTEE HEARING PROCEDURE

PROCEDURE

1. The Chair of the Panel 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.

PRE-MEETING

2. **The Advisor to the Hearing Panel will arrange a pre-meeting with the Chair of the Panel to ensure that all necessary preparations for the hearing have been made and to identify any particular procedural issues relating to the hearing.**

REPRESENTATION

- 3.. The Subject Member may be legally represented, or with the permission of the Sub-Committee, by another person. It is the responsibility of the Subject Member to arrange for their own representation.

LEGAL ADVICE

- 4.. The Sub-Committee may take legal or procedural advice from its Legal Adviser (who may be the Monitoring Officer) at any time during the Hearing or during the Sub-Committee's deliberations. The substance of any advice given to the Sub-Committee will be shared with the Subject Member and Investigating Officer (IO) if they are present at the Hearing.

INTRODUCTIONS AND SETTING THE SCENE

- 5.. At the start of the Hearing, the Chair of the Panel shall introduce each of the members of the Sub-Committee, the Subject Member (if present), the IO (if present), and the Legal Adviser. The Chair will confirm that all present have received a copy of the relevant documents including a copy of the Investigating Officer's Report. The Chair will then explain the procedure, which the Sub-Committee will follow.

THE ROLE OF THE INDEPENDENT PERSON

6. The Independent Person is invited to attend the Hearing and their views must be sought and taken into consideration before the Panel takes any decision on whether the subject member's conduct constitutes a failure to comply with the

Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

PRELIMINARY PROCEDURAL ISSUES

7. The Sub-Committee shall deal with the following preliminary procedural matters:

a) Disclosures of interest

The Chair shall ask members of the Sub-Committee to disclose the existence and nature of any personal and/or prejudicial interests which they have in the matter, and to withdraw from consideration of the matter if so required.

b) Quorum

The Chair shall confirm that the Sub-Committee is quorate.

c) Exclusion of Press and Public

The Chair shall ask the Subject Member, the Investigator and the Legal Adviser to the Sub-Committee whether they wish to ask the Sub-Committee to exclude the Press or Public from all or any part of the Hearing. If any of them so request, the Chair shall ask them to put forward reasons for so doing and ask for responses from the others and the Sub-Committee shall then determine whether to exclude the press and public from all or any part of the Hearing.

d) Hearing procedure

The Chair shall confirm that all present know the procedure which the Sub-Committee will follow in determining the matter.

8. If the Subject Member is not present at the start of the hearing:

- The Chair will ask the 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;
- If it 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.

STAGE 1:

MAKING FINDINGS OF FACT

- 9.. The Sub-Committee must first consider whether or not there are any significant disagreements about the facts contained in the IO's report. If there is no disagreement about the facts, the committee can move on to stage 2 of the hearing.
- 10 If there is disagreement, the IO 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 IO or any witness.
- 11 The Subject Member or his/her representative will then 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 IO and the Sub-Committee members may ask questions of the Subject Member or any witnesses.
12. At any time, the Sub-Committee may question any of the people involved or any witnesses, and may allow the Investigator to challenge any evidence put forward by witnesses called by the Subject Member.
13. If the Subject Member disagrees with most of the facts, the Investigator will make representations on all the relevant facts, instead of discussing each fact individually.
14. 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 IO to respond and call witnesses as necessary, or may postpone the hearing to arrange for appropriate witnesses to be present.
15. At any stage in the consideration of the matter, the Sub-Committee may ask further questions of the IO 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.

STAGE 2:

DID THE SUBJECT MEMBER FAIL TO FOLLOW THE CODE OF CONDUCT?

- 16 The Sub-Committee will then consider whether, based on it's findings of fact, the subject member has failed to follow the Code.

17. The Subject Member will be invited to give relevant reasons why the Sub-Committee should decide that they have not failed to follow the Code.
18. The Sub-Committee will then consider any verbal or written representations from the Investigator.
19. The Sub-Committee may, at any time, question anyone involved on any point they raise on their representations.

STAGE 3

IF THE SUBJECT MEMBER HAS FAILED TO FOLLOW THE CODE OF CONDUCT WHAT, IF ANY, SANCTION SHOULD BE IMPOSED?

20. The Sub-Committee will consider any relevant verbal or written representations from the Investigator and the Subject Member and determine whether in the event of a finding that there has been a breach of the Code of Conduct:
 - the Sub-Committee should apply a sanction
 - what form any sanction should take
21. The Sub-Committee may ask questions of the Subject Member and the IO and take legal advice, to make sure they have the information they need in order to make an informed decision.

AVAILABLE SANCTIONS

22. The Sub-Committee may impose any of the following sanctions:
 - Publish its findings in respect of the Member's conduct;
 - Report its finding to Council for information;
 - Recommend to Council that the Member be censured;
 - Recommend to the Members group leader (or in the case of ungrouped members recommend to Council) that he/she be removed from any or all committees or sub committees of the Council;
 - Recommend to the Leader of the Council that the Member be removed from the Executive, or removed from their portfolio responsibilities;
 - Instruct the Monitoring Officer to arrange training for the Member;

- Recommend to Council that the Member be removed from all outside bodies, appointments to which they have been appointed or nominated by the Council;
- Withdraw facilities provided to the Member by the Council such as a computer, website and/or e-mail and internet access; or
- Placing such restrictions on Members access to staff which may be reasonable in the circumstances and in accordance with the Member/Officer Protocol provided that such restrictions do not impede the member from carrying out their duties as a Councillor

DECISION

23. The Sub-Committee shall then consider in private it's decisions with regard to stages 1,2 and 3 above (as appropriate).
24. The Chair will announce the decision of the Sub-Committee. Written notice of the findings of the Sub-Committee with reasons will be given as soon as it is reasonably practicable to the Subject Member and any person who made an allegation that gave rise to the investigation.

RECOMMENDATIONS TO THE AUTHORITY

25. The Sub-Committee may consider making recommendations with a view to promoting higher standards of conduct among members.

Linda Fisher
Monitoring Officer
 Rochdale MBC

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