Herefordshire Council

COC093
Standards Panel Hearing 2nd April 2025

Link to full process:
Arrangements for dealing with complaints about the Code of Conduct for Members

Extract for Standards Panel Hearing Process - Stage 4:

Stage 4 - Standards Panel Hearing Procedure

Action:	To arrange the Meeting of the Standards Panel; To hold the meeting of the Standards Panel and determine the outcome of the complaint.
Decision Maker	Standards Panel (in consultation with one of the two Independent Persons)
Guidance	

4a. Unless determined by the MO, all matters considered by the Standards Panel under these Arrangements shall be open to the public. The meeting shall only be exempt under Schedule 12A of the Local Government Act 1972 by a decision of the Standards Panel after receiving a recommendation from the MO. The press, public and members who are not the relevant subject members, witnesses or the Standards Panel shall be excluded where the Standards Panel deems the matter is exempt.

4b. At least 10 working days prior to the meeting the Democratic Services Manager will issue the paperwork for the Standards Panel. The paperwork will be sent to each member of the Standards Panel, to the subject member, the Independent Person, the complainant and to the MO. The paperwork will include the agenda for the meeting of the Panel, a copy of any investigator's report (whether performed by the MO or a third party) and copies of any written statements.

4c. The report will contain the investigator's recommendation and may provide guidance on decisions or law in similar matters. The report will clear set out the allegations, the breach of the Code reported, and the decision required from the Panel.

4d. The meeting of the Standards Panel shall be held as soon as practicably possible after issue of the agenda but no sooner than 10 working days after issue of the agenda. The Democratic Services Manager shall arrange a time and date for the Standard's Panel to meet and consider the matter.

4e. At least 5 working days before the date of the meeting of the Standards Panel, the Democratic Services Manager shall notify the subject member, complainant and any relevant witnesses of the date, time and place of the meeting and the membership of the Standards Panel at which the matter will be considered.

4f. The Democratic Services Manager shall request that any copy documentation is kept confidential, and all members and officers of the Council shall maintain such confidentiality. Where any third party does not comply with any request for confidentiality then the MO will advise the parties as to the further right of disclosure in relation to the paperwork.

4g. All paperwork associated with the Standards Panel meeting will be subject to the Council's Access to Information Procedure Rules save that no other member of the Council shall receive the agenda.

4h. The Democratic Services Manager shall use reasonable endeavours to arrange a date which is convenient to the Standards Panel, subject member, complainant and MO provided that where the subject member or complainant are unable to attend within 20 working days of the date the Democratic Services Manager intends to the issue the agenda then the meeting shall go ahead in their absence.

4i. Once the Democratic Services Manager fixes the date of the meeting, if the subject member, complainant or any witness fails to attend (or indicates they will not attend) the meeting, then the meeting shall proceed in their absence.

Attendance of the Subject Member and Complainant

4j. The subject member may be accompanied at the meeting by one person. An officer may be accompanied by one officer colleague. Any third party can be accompanied by one colleague. All attendance shall be at their own expense. The agenda shall not be sent to persons accompanying the parties.

4k. Any party opting to be accompanied at the meeting must notify the Democratic Services Manager of their intention to do so and identity of the person at least three clear working days before the meeting.

4l. If the subject member or complainant are not present, unless the Panel is satisfied that there is sufficient reason for their failure to attend, then the Panel shall proceed in their absence. Where the Panel proceeds in their absence, the procedure for the meeting shall be adapted as necessary.

Order of business

4m. The order of business at the meeting shall be as follows:

(i) elect a person to preside if the Chairperson or Vice-Chairperson are not present;
(ii) receive apologies for any inability to attend the meeting;
(iii) receive any Declarations of Interest from Members;
(iv) consideration as to whether to adjourn or to proceed in the absence of the subject member or complainant;
(v) introduction of the Panel, MO (or their representative), independent investigator (if instructed), the Democratic Services Manager (or their representative), the subject member, the Independent Person, complainant and any other witnesses present;
(vi) hear any representation from the MO (or their representative) and/or the subject member as to reasons (if any) why the Panel should exclude the press and public and a determination as to whether to exclude the press and public. Where the Panel decides that it will not exclude press and public, the Democratic Services Manager shall at this point provide copies of the agenda and reports to any members of the press and public who are present;
(vii) the Panel shall determine whether all witnesses need to attend to give oral evidence and the timing of such attendance; and
(viii) consideration of the complaints in the order in which the Panel shall determine.

Speaking

4l. The order of speaking shall be as follows:

(i) The MO shall introduce the complaint and (where an independent investigator is not in attendance) any report;
(ii) The independent investigator (if requested and in attendance) shall introduce the report;
(iii) Complainant (or their representative) shall introduce their complaint;
(iv) Complainant (or their representative) shall call their witnesses to give evidence;
(v) The subject member (or their representative) shall introduce their rebuttal of the complaint;
(vi) The subject member (or their representative) shall call their witness to give evidence;
(vii) The complainant (or their representative) will sum up their complaint;
(viii) The subject member (or their representative) will sum their position.

4m. In respect of each speaker, the Chairperson of the Panel shall allow questions in such order as the Chairperson considers appropriate from:

(i) The complainant (or their representative);
(ii) The subject member (or their representative);
(iii) The Panel;
(iv) The MO;

(v) The Independent Person.

4n. The Chairperson shall determine the order, manner and time necessary to enable the orderly conduct of the meeting with the aim that the meeting is conducted in a fair manner within the time and resources available. Such discretion will include deciding if:

(i) a further right of reply is required from a party;
(ii) whether questions by the subject member or complainant (or by their representatives) of each other should be put directly or by directing appropriate questions to through the Chairperson);
(iii) limiting the number of witnesses to be heard by the Panel to only those considered critical to the substance of the complaint; or
(iv) deciding when a person shall be heard (or not heard) further.

4o. The Panel shall permit a representative to present the case and ask questions on behalf of the subject member or the complainant, but any questions put shall be answered only by the subject member or the complainant.

4p. At the conclusion of the presentation by the last speaker, the Chairperson will close this part of the meeting and request the subject member, representatives, witnesses and complainant & members of press & public leave the meeting. The Chairperson will inform the parties that the Panel will convene in private with the Independent Person, MO and Democratic Services Manager. The Panel will then decide in the private session to either:

(i) Adjourn the meeting if further investigation or information is required; or
(ii) Make a decision on the facts presented at the meeting.

4q. The Chairperson will notify the parties that the MO shall communicate the parties of the decision within 5 working days of the meeting (unless an adjournment is requested).

Making a Decision

4r. In the private session, the Chairperson will ask the MO whether there was any matter raised during the course of the meeting which was not addressed in the report or requires further investigation. The views of the Independent Person will be sought.

4s. The Panel will decide whether to adjourn to enable the MO to investigate and report on that new matter and/or to secure the attendance of witnesses as to the new matter.

4t. If no adjournment is requested, then the MO will sum up the evidence presented in respect to denying or supporting the alleged breach of the Code of Conduct and if upheld then the appropriate sanction that could be recommended.

4u. The Panel shall then make a decision whether the subject member has breached the relevant Code of Conduct, and the reasons for that decision. If the subject member is in breach of the Code of Conduct, the Panel shall further decide whether there shall be:

(i) letter of censure but no further action;
(ii) letter of censure and recommendation of further sanctions.

4v. No further action shall be appropriate where there is a minor or incidental breach of the Code of Conduct, or where the member has demonstrated to the Panel acceptance and regret as to the breach, or where the member has performed an act of mitigation (such as an apology) prior to the decision of the Panel.

4w. The Panel may refer to previous decisions of the Standards Panel or the MO when making its decision.

Sanctions

4x. Where a member has been found by the Panel to have breached the Code of Conduct, the Panel may apply any one or more of the sanctions below:

(a) Report its findings to Council or relevant Town/Parish Council;
(b) Recommend to the Council or Parish/Town Council that the member be issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand);
(c) Recommend to the subject member's Group Leader, or Parish/Town Council, or in the case of an ungrouped Member to the Council, that they be removed from Cabinet, committees or sub-committees of the Council;
(d) Recommend to the Leader of the Council that the member be removed from positions of responsibility;
(e) Instruct the Monitoring Officer, or recommending to the Parish/Town Council, to arrange training for the member, and requiring that confirmation of completion of such training is provided to the Monitoring Officer;
(f) Recommend to the Council or Parish/Town Council that the member be removed from one or more outside appointments to which they have been appointed or nominated by the Council or Parish/Town Council;
(g) Recommend to the Council or Parish/Town Council that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and internet access, for a specified period;
(h) Recommend to the Council or Parish/Town Council the exclusion of the member from the Council or Parish/Town Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council or Parish/Town Council committee and sub-committee meetings;
(i) If relevant, recommend to Council/political group that the subject member be removed from their role as Leader of the Council or group Leader or other position of responsibility.

Reporting Decision of Standards Panel

4y. As soon as reasonably practicable (usually within 24 hours) after the Panel has made its determination in respect of an allegation, the MO shall take reasonable steps to notify the subject member and complainant of the decision only.

4z. As soon as reasonably practicable (usually within five working days) after the Panel has made its determination in respect of an allegation, the MO shall take reasonable steps to give written notice of that determination and the reasons for such determination to the complainant and subject member.

4aa. Where the Panel determines that there has not been a breach of the Code of Conduct the Decision Notice shall state that the Panel found that the subject member concerned had not failed to comply with the code of conduct of the Council and shall give its reasons for reaching that finding.

4ab. Where the Panel determines that there has been a breach of the Code of Conduct the Decision Notice shall:

(i) state that the Panel found that the subject member concerned had failed to comply with the Code of Conduct;
(ii) specify the details of the failure;
(iii) give reasons for the decision reached by the Panel; and
(iv) state what sanction, if any, is recommended.

There is no right of appeal against the decision of the Standards Panel or recommended sanctions.

Transparency Arrangements

5a All decision notices where there is a finding of a breach of the Code of Conduct, either following a decision by the Monitoring Officer after formal investigation, or by a Standards Panel, will be published on the Council's website. Such notices will be retained until the later of 6 years, or the subject member ceasing to be an elected member.

5b The Monitoring Officer (in consultation with the Chair of Standards Panel) may also publish for such period as considered appropriate other decision notices that do not amount to a breach.

5c All decision notices, whether following initial assessment by the Monitoring Officer or formal investigation by the Monitoring Officer, will be copied to the members of the Standards Panel. This will include:

Following Initial Assessment:

1. No further action should be taken on the allegation (e.g. there is no breach or no jurisdiction);
2. The matter should be dealt with through a process of informal resolution in the first instance (e.g the member has agreed to apologise); or
3. The matter should be referred for a formal investigation.

Following Formal Investigation by the Monitoring Officer:

1. There has been no breach and therefore no further action will be taken;
2. There have been one or more breaches, but no further action is needed (for example: the member has already apologised for the breach;
3. There have been one or more breaches, but the matters should be resolved in a way other than by a hearing (e.g an appropriate form of resolution or actions to be taken); or
4. That the matter be referred to a hearing.