

## APPENDIX A

### Hearing procedures for the Standards Committee

#### Interpretation

1 'Member' means the Member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Member's nominated representative.

2 'Investigator' means the Ethical Standards Officer (ESO) who referred the report to the authority, and includes his or her nominated representative. In the case of matters that have been referred for local investigation, references to the Investigator mean the Monitoring Officer or other investigating officer, and his or her nominated representative.

3 'Committee' also refers to 'a standards sub-committee'.

4 'Legal advisor' means the officer responsible for providing legal advice to the Standards Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

#### Representation

5 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

6 The Committee may take legal advice 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 and the Investigator if they are present.

#### Setting the scene

7 After all the Members and everyone involved have been formally introduced, the Chair should explain how the Committee is going to run the hearing.

#### Preliminary procedural issues

8 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

9 After dealing with any preliminary issues, the Committee should then move on to consider whether or not there are any significant disagreements about the facts contained in the Investigator's report.

10 If there is no disagreement about the facts, the Committee can move on to the next stage of the hearing.

11 If there is a disagreement, the Investigator, 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 Investigator may call any necessary supporting witnesses to give evidence. The Committee shall give the Member an opportunity to question any evidence put forward by any witness called by the Investigator at the end of each witness's evidence. The Committee may then ask questions of the witness.

**12** At the conclusion of the Investigator's presentation the Member should then have the opportunity to make representations to support his or her version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence. The Committee shall give the Investigator an opportunity to question any evidence put forward by any witness called by the Member at the end of each witness's evidence. The Committee may then ask questions of the witness.

**13** If the Member disagrees with most of the facts, it may make sense for the Investigator to start by making representations on all the relevant facts, instead of discussing each fact individually.

**14** Where the Member disagrees with any relevant fact in the Investigator's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the Investigator is not present, the Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then:

- a** continue with the hearing, relying on the information in the Investigator's report;
- b** allow the Member to make representations about the issue, and invite the Investigator to respond and call any witnesses, as necessary; or
- c** postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigator to be present if he or she is not already.

**15** The Committee will consider the representations and evidence in private and in the presence of the clerk and legal advisor if they so wish.

**16** On their return, the Chair will announce the Committee's findings of fact.

#### **Did the Member fail to follow the Code?**

**17** The Committee then needs to consider whether or not, based on the facts it has found, the Member has failed to follow the Code of Conduct.

**18** The Member should be invited to give relevant reasons why the Committee should decide that he or she has not failed to follow the Code.

**19** The Committee should then consider any verbal or written representations from the Investigator.

**20** The Committee may, at any time, question anyone involved on any point they raise in their representations.

**21** The Member should be invited to make any final relevant points.

**22** The Committee will consider the representations in private and in the presence of the clerk and legal advisor if they so wish.

**23** On their return, the Chair will announce the Committee's decision as to whether or not the Member has failed to follow the Code of Conduct.

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

**24** 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**

**25** 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 Investigator and the Member as to:

- a** whether or not the Committee should set a penalty; and
- b** what form any penalty should take.

**26** The Committee may question the Investigator and Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.

**27** The Committee will then consider in private (with the clerk and legal advisor if they so wish) whether or not to impose a penalty on the Member and, if so, what the penalty should be.

**28** On their return, the Chair will announce the Committee's decision.

#### **Recommendations to the authority**

**29** After considering any verbal or written representations from the Investigator, the Committee will consider whether or not it should make any recommendations to the authority, with a view to promoting high standards of conduct among Members.

#### **The written decision**

**30** The Committee will announce its decision on the day and if possible provide a short written decision on that day. It will issue a full written decision within 7 days of the end of the hearing.

#### **Making the findings public**

**31** The Committee has to arrange for a summary of the decision and reasons for that decision to be published in at least one newspaper circulating in the area of the authority concerned. If the Committee has found that the Member did not fail to follow the Code of Conduct the Member is entitled to ask that no summary of the decision is to be passed to local newspapers. The Committee's report and minutes shall be available for public inspection for a period of six years following the hearing. Any documents relating to part of the hearing held in private shall not be made available for public inspection.

#### **Closing the Hearing**

**32** The Chair shall close the hearing.