

SOUTH HAMS DISTRICT COUNCIL

Procedure to be adopted for a hearing by the Standards Committee

1. Representation

The Member may be represented at the hearing by a legal representative or by another person, with the permission of the Committee.

2. Legal advice

The Committee may take legal advice from the legal adviser at anytime during the hearing and during their deliberations.

3. Pre-hearing matters

The Committee shall introduce themselves and deal with any house issues and explain how the hearing is going to be conducted. The hearing will be in public unless otherwise notified. The Member, the Complainant, The Clerk to the Parish Council, The Standards Board for England and the press will be notified of the outcome. Evidence heard is not given on oath.

4. Preliminary procedural issues

The Committee should resolve any issues or disagreements about how the hearing is to be conducted.

5. Findings of fact

The Committee should consider if there are any significant disagreements about the facts contained in the investigator's report.

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

7. 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 may give the Member an opportunity to challenge any evidence put forward by any witness called by the investigator.

8. 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.

9. At any time, the Committee may question the witnesses, the Member, the investigator or seek legal advice. Also, the Committee may allow the investigator to challenge any evidence put forward by witnesses called by the Member.
10. If a Member disagrees with most of the facts, the Committee should invite the investigator to make representations on all the relevant facts and not discuss each fact individually.
11. If a Member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, the member must give good reasons for not mentioning it before the hearing. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may:
 - a. continue with the hearing relying on the investigator's report and the evidence presented;
 - 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.
12. The Committee will deliberate in private with the legal adviser in attendance and then the Chairman will announce the committee's findings on fact.
13. **Was there a breach of the Code?**

At this stage, the Committee will need to decide given their findings on fact, whether there was a breach of the code. Representations should be invited from the Member as to why the Committee should not find that the Member has failed to follow the code, and representations should be invited from the investigating officer.

14. The Committee will once again deliberate in private in order to reach a decision on whether or not the member has breached the Code. When delivering this decision, if the Committee finds that a breach has occurred, they will seek representations from both the Member and the investigator as to:
 - a. whether or not the Committee should set a penalty; and
 - b. what form any penalty should take

15. Penalty

The Committee may question anyone present to make sure that they have all the information to make an informed decision. When satisfied that they have all the information, the Committee will once again deliberate in private.

16. The Decision

The Committee will announce its decision on the day and provide a short written decision on the day. It will also issue a full written decision shortly after the hearing.