

WOLVERHAMPTON CITY COUNCIL GOVERNANCE AND ETHICS STANDARDS COMMITTEE

HEARING PROCEDURES

The Hearing Sub-Committee will comprise three Members of the Governance and Ethics Standards E Committee and will be chaired by an independent Member of the Standards Committee.

INTERPRETATION

“Subject 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 Members nominated representative.

“Investigator” means the Monitoring Officer or Ethical Standards Officer and includes their nominated representative.

“Committee” also refers to a Sub-Committee

“Legal Adviser” 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.

PUBLIC/PRIVATE SESSION

The hearing will take place in private session and will remain private unless there is a finding against the Member concerned, if there is a finding against the member the note of the hearing will be published.

REPRESENTATION

The subject Member may be represented or accompanied during the meeting by a Solicitor, Counsel or, with the permission of the Committee, another person.

LEGAL ADVICE

The Committee may take legal advice in private, if necessary, from its legal adviser 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 subject Member and the investigator if they are present.

SETTING THE SCENE

After all the Members and everyone involved have been formally introduced, the Chair will explain how the Committee is going to run the Hearing referring to the Order of Procedure below.

HEARING SUB-COMMITTEE ORDER OF PROCEDURE

Introductions

Explanation of Procedure to be adopted at hearing

Preliminary Issues/Matters arising from Pre-hearing process

1. **Consideration of Facts Contained in Investigators Report**

- Representations of Investigator
- Questions by Subject Member
- Questions by Sub-Committee
- Representations by Subject Member
- Questions by Investigator
- Questions by Sub-Committee

Investigator and Subject Member withdraw from hearing while
Sub-Committee makes its decision on the facts.

Chair announces findings of fact

2. **Consideration as to Whether the Subject Member Failed to follow the Code of Conduct**

- Representation by Subject member
- Questions by Investigator
- Questions by Sub-Committee
- Representations by Investigator
- Questions by Subject Members
- Questions by Sub-Committee
- Summing up by Investigator
- Summing up by Subject Member

Investigator and Subject Member withdraw from the hearing while
Sub-Committee makes its decision as to whether subject member has
failed to follow the code.

Chair announces decision

3. **Consideration as to Sanction**

- Representation by Investigator
- Questions by Subject Member
- Questions by Sub-Committee
- Representations by Subject Member
- Questions by Investigator
- Questions by Sub-Committee

Investigator and Subject Member withdraw from the hearing while Sub-Committee decides whether to impose a sanction on the Subject Member and, if so, what sanction it should be.

PRELIMINARY PROCEDURAL ISSUES

The Committee will resolve any issues or disagreements about how the Hearing will continue which have not been resolved during the pre-Hearing process.

MAKING FINDINGS OF FACT

After dealing with any preliminary issues, the Committee will move to consider whether there are any significant disagreements about the facts contained in the investigator's report.

If there is no disagreement about the facts, the Committee will move to the next stage of the Hearing.

If there is a disagreement, the investigator, if present, will 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 subject Member an opportunity to challenge any evidence put forward by any witness called by the investigator.

The subject Member will have the opportunity to make representations to support their version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence.

At any time, the 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 Member.

If the subject Member disagrees with most of the facts, the investigator will start by making representations on all the relevant facts, instead of discussing each fact individually.

If the subject Member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the Hearing. If the investigator is not present, the Committee will consider whether it would be in the public interest to continue in their absence.

After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then;

- continue with the Hearing, relying on the information in the investigator's report
- allow the subject Member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary.
- postpone the Hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if they are not ready.

The Committee will consider representations and evidence in private.

The Chair will announce the Committee's findings of fact.

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

The Committee will consider whether, based on the facts, it has found, the subject Member has failed to follow the Code.

- The subject Member will be invited to give reasons why the Committee should decide that they have not failed to follow the Code
- The Committee will then consider any verbal or written representations from the investigator
- The Committee may, at any time, question anyone involved on any point they raise on their representations
- The subject Member should be invited to make any final relevant points
- The Committee will consider the representations in the absence of the parties.

The Chair will announce the Committee's decision as to whether the subject Member has failed to follow the Code.

IF THE SUBJECT MEMBER HAS NOT FAILED TO FOLLOW THE CODE OF CONDUCT

If the Committee decides that the subject Member has not failed to follow the Code, the Committee will consider whether it should make any recommendations to the Authority.

IF THE SUBJECT MEMBER HAS FAILED TO FOLLOW THE CODE OF CONDUCT

If the Committee decides that the subject Member has failed to follow the Code, it will consider any verbal or written representations from the investigator and the subject Member as to:

- Whether the Committee should apply a sanction
- What form any sanction should take

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.

The Committee will then deliberate in private to consider whether to impose a sanction on the subject Member and, if so, what sanction it should be.

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

RECOMMENDATIONS TO THE AUTHORITY

After considering any verbal or written representations from the investigator, the Committee will consider whether it should make any recommendations to the Authority, with a view to promoting high standards of conduct among Members.

THE WRITTEN DECISION

The Committee will announce its decision on the day and provide a short written decision on that day. It will also need to issue a full written decision shortly after the end of the Hearing.

The decision will be made public if there is a finding against the Member concerned but will remain private if there is no finding against the Member.