

<b>Subject:</b>	<b><i>Standards Board Guidance affecting changes to the procedures for local assessment, investigation and determination of complaints</i></b>		
<b>Date of Meeting:</b>	<b>16 September 2008</b>		
<b>Report of:</b>	<b><i>Director of Strategy &amp; Governance</i></b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b><i>Brian Foley</i></b>	<b>Tel:</b> <b>29-3109</b>
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<b>Wards Affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE****1. SUMMARY AND POLICY CONTEXT:**

- 1.1 This report introduces new Standards Board guidance that will affect the Council's adopted procedures for the local assessment, investigation and determination of complaints about member conduct, and proposes how the guidance will be addressed.

**2. RECOMMENDATIONS:**

- 2.1 That Members note the report.
- 2.2 That as an interim measure, Members approve the use of the East Sussex Fire Authority's adopted procedures for investigation and determination of complaints.

**3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 On 12 December 2004 the Council adopted a procedure for the "Local investigation of allegations of Member Misconduct," and for the "Local determination of allegations of Member Misconduct." Those procedures were amended in March 2007.
- 3.2 With effect from 8 May 2008, the responsibility for receiving complaints of Member Conduct moved from the Standards Board to the Council.
- 3.3 On 23 May 2008 the Council adopted a procedure for the "Local assessment of allegations of Member Misconduct"
- 3.4 By virtue of the Standards Committee (England) Regulations 2008, the Council is obliged to consider guidance issued by the Standards Board when exercising its investigation and hearings functions.

- 3.5 On 23 June the Standards Board issued guidance on the Local Assessment of Complaints, and on 10 August 2008 this guidance was updated. At the same time the Standards Board issued new guidance for Local Investigation of Complaints and Standards Committees Determinations. The guidance is extensive, and will require changes to be made to existing procedures.
- 3.6 On 14 August 2008, the Assessment Panel held its first meeting to consider an allegation of Member misconduct.
- 3.7 In the light of the recently issued guidance, and of the experience of the first assessment panel meeting, it is considered appropriate to review the Council's existing procedures, particularly those relating to investigations and determinations which pre-date the change of responsibility for the receipt of complaints about member misconduct.
- 3.8 The key areas that may require amendment include:
- Full checking of the procedures for any inconsistencies.
  - Changes of reference from Standards Board to Standards Committee where necessary, and other consequential amendments to reflect the change to local responsibility for receipt of complaints
  - Including a provision to defer investigations as encompassed within the new guidance
  - Amendment to sanctions available to the Standards Committee
  - Inclusion of guidance relating to the process of considering appropriate sanctions
  - Guidance relating to written decisions
  - Changes in provision for reporting decisions of the Assessment Panel
- 3.9 It is proposed that officers review the existing procedures, legislative requirements and latest Standards Board guidance with a view to presenting new procedures for adoption to the Committee at its 11 November 2008 meeting.
- 3.10 As will be appreciated from the foregoing, the existing Investigation and Determination procedures are not really appropriate. It is therefore recommended that the East Sussex Fire Authority's recently adopted procedures, attached as appendix 1 and read as having been amended where necessary, be used as the Council's procedures as an interim measure. The Fire Authority's procedures postdate 8 May 2008, and were formulated by Brighton & Hove City Council's former Principal Solicitor, John Heys.

#### **4. CONSULTATION**

- 4.1 No consultation has been carried out.

**5. FINANCIAL & OTHER IMPLICATIONS:**

5.1 Financial Implications:

There are none

*Finance Officer Consulted: Ian Withers*

*Date:01 September 2008*

5.2 Legal Implications:

These are addressed in the body of the report.

*Lawyer consulted: Liz Woodley*

*Date: 28 August 2008*

5.3 Equalities Implications:

There are no direct implications arising from this report

5.4 Sustainability Implications:

There are no direct sustainability implications arising from this report

5.5 Crime & Disorder Implications:

There are no direct crime and disorder implications arising from this report

5.6 Risk and Opportunity Management Implications:

There are no direct risk and opportunity implications arising from this report

5.7 Corporate / Citywide Implications:

There are no direct corporate/citywide implications arising from this report

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. East Sussex Fire Authority's adopted procedures for Local Investigation of allegations of Member Misconduct.
2. East Sussex Fire Authority's adopted procedures for Local Determination of allegations of Member Misconduct.

### **Documents In Members' Rooms**

1. None

### **Background Documents**

1. None

## APPENDIX 1

### EAST SUSSEX FIRE AUTHORITY

Procedure for Local Investigation of Allegations of Member Misconduct and presentation to a Hearing Panel for initial findings under Regulation 17

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## **Introduction and Summary**

This note sets out the procedure which will be followed in the local investigation of allegations of misconduct by Members of East Sussex Fire Authority and applies to breaches of the authority's Code of Conduct for Members. It takes into account the statutory provisions in the Local Government Act 2000, the Standards Committee (England) Regulations 2008 and relevant statutory guidance.

The procedure applies where an allegation that a Member has breached the authority's Code of Conduct for Members has been referred for investigation to the authority's Monitoring Officer by an Assessment Panel or Assessment Appeal Panel of the authority or by an Ethical Standards Officer of the Standards Board for England.

The Monitoring Officer is then required to arrange for an Investigating Officer to investigate the allegation and to report the matter to a Hearing Panel which may be the authority's Standards Panel but usually will be a Sub-Committee of the Standards Panel convened for the purpose.

When the Investigating Officer has completed the investigation, the Hearing Panel must meet and has three initial findings that it can make under Regulation 17 of the Standards Committee (England) Regulations. If the Investigating Officer has found there has been no failing on the part of the Member, it can accept that finding. If the Hearing Panel decides not to accept that finding or if the Investigating Officer has found there was a failing on the part of the Member, there are two alternative findings that can be made. These are either to proceed to a formal hearing of the matter by the authority's Hearing Panel, or to refer the matter to the Adjudication Panel for England. The limited circumstances in which the matter may be referred to the Adjudication Panel are set out below in part 5 of this Procedure.

Where the Investigating Officer has found that there has been a failure to comply with the Code of Conduct for Members, or where the Hearing Panel decides to hold a full hearing although the Investigating had found no failing in his/her report, there will then be a formal hearing to determine whether a breach of the authority's Code of Conduct for Members has occurred and whether any action should be taken in consequence.

In these processes, the function of the Investigating Officer is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented to the Hearing Panel (or exceptionally the Adjudication Panel), to enable the Panel to come to an informed decision as to whether the Member has failed to comply with the authority's Code of Conduct for Members and upon any consequential action.

The authority's Hearing Panel acts in an inquisitorial manner, rather than an adversarial manner, seeking the truth in relation to the conduct of the Member on the balance of the information available to it, and may commission further investigation or information if it needs to do so in order to come to a decision. The Monitoring Officer may agree to vary this procedure in any particular instance where he/she is of the opinion that such a variation is desirable and does not conflict with statutory requirements.

## Interpretation

**“Assessment Panel” includes the Assessment Appeal Panel, the role of these Panels being to assess complaints about alleged breaches of the Code of Conduct and decide what action, if any, should be taken.**

**“Code of Conduct” means Code of Conduct for Members.**

**“ESO” means an Ethical Standards Officer.**

**“Member”, except where the context otherwise requires, means the elected member or co-opted member of the authority who is the subject of the allegation that he/she has breached the Code of Conduct . It also includes the Member’s nominated representative.**

**“Investigating Officer” means, as appropriate to the circumstances, the person appointed by the Monitoring Officer to undertake the investigation (which may include the Monitoring Officer, and his or her representative) or the ESO who has referred a matter for investigation to the authority (and his or her nominated representative).**

**“the matter” is the subject matter of the Investigating Officer’s report.**

**“The Hearing Panel’ refers to the Standards Panel or its Sub-Committee whose role it is to hear cases and make local determinations on complaints about alleged breaches of the Code of Conduct.**

(h) “Regulation 17” means Regulation 17 of the Standards Committee (England) Regulations 2008

## 2 Notification of Reference of Allegation to the Monitoring Officer

(a) Appointment of Investigating Officer

Upon receipt an allegation for investigation, the Monitoring Officer will appoint an Investigating Officer in respect of the allegation and instruct him/her to conduct an investigation of the allegation and to report thereon to the authority’s Hearing Panel. The Investigating Officer may be an officer of the authority<sup>1</sup>, an officer of another local authority, or an external Investigating Officer. In relation to an allegation referred by an ESO, if the Investigating Officer is other than the Monitoring Officer, the Monitoring Officer shall inform the ESO of the name and address of the person to whom the investigation has been delegated.

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<sup>1</sup> The role of the Investigating Officer must be kept distinct from the roles of committee support officer and legal adviser to the Hearing Panel. The Investigating Officer must be a different person from the person or persons who act as committee support officer and/or legal adviser to the Hearing Panel in respect of the allegation.

Subject to the agreement of the Monitoring Officer, the Investigating Officer may appoint persons to assist him/her in the conduct of his/her functions and may obtain such professional advice as may be necessary for the conduct of the investigation.

(b) Notification to the Member

Subject to any direction from the Assessment Panel or an ESO, the Monitoring Officer will then notify<sup>2</sup> in writing the Member against whom the allegation is made:

*that the allegation has been referred to him/her for local investigation and determination;*

*the identity of the person making the allegation;*

*of the conduct which is the subject of the allegation;*

*of the section(s) of the Code of Conduct which appear to him/her to be relevant to the allegation;*

*of the procedure which will be followed in respect of the allegation, and of the identity of the Investigating Officer.*

The Monitoring Officer shall provide the Member with a copy of any report received from the ESO (see also 2(e) below).

(c) Notification to the Standards Committee and other bodies

Subject to any direction from the Assessment Panel or an ESO, at the same time as notifying the Member, the Monitoring Officer will notify each member of the Standards Committee in writing, under a requirement for confidentiality, of the matters set out in paragraphs 2(b)(i), (iii), (iv) and (vi) above and will also inform the following that the matter has been referred for investigation:-

- (i) the Monitoring Officer for the Standards Committee of any other authority concerned and
- (ii) the Clerk of any Parish Council concerned.

(d) Notification to the person who made the allegation (the Complainant)

Subject to any direction from the Assessment Panel or an ESO, at the same time as notifying the Member, the Monitoring Officer will notify the person who made the allegation in writing of the matters set out in paragraphs 2(b)(i), and (iii) to (vi) above and will provide any directions that can be made regarding the forthcoming investigation.

(e) Initial response of the Member

In notifying the Member of receipt of the allegation, the Monitoring Officer shall request the Member to respond to the Investigating Officer in writing within 14 days of notification as follows:

- (i) *advising the Investigating Officer whether the Member admits or denies the breach of the Code of Conduct which is the subject of the allegation;*
- (ii) *listing any documents which the Member would wish the*

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<sup>2</sup> In exceptional cases, where there is reason to believe that it would be contrary to public interests or would prejudice any person's ability to investigate the allegation there is power to defer notifying the Member.



- Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigating Officer of where the original documents may be inspected;*
- (iii) *providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the Member would wish the Investigating Officer to interview in the course of any investigation of the allegation; and,*
- (iv) *providing the Investigating Officer with details of any information which the Member would wish the Investigating Officer to seek from any person or organisation.*

- (f) Supporting information from the person who made the allegation

In notifying the person who made the allegation as above, the Monitoring Officer will request him/her to respond to the Investigating Officer within 14 days

- (i) *listing any documents which the person would wish the Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigating Officer of where the original documents may be inspected;*
- (ii) *providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of any person or organisation whom the Complainant would wish the Investigating Officer to interview in the course of any investigation of the allegation; and,*
- (iii) *providing the Investigating Officer with details of any information which the Complainant would wish the Investigating Officer to seek from any person or organisation.*

### **3. Conduct of the Investigation**

- (a) Purpose of the Investigation

The purpose of the Investigating Officer's investigation is to enable him/her to prepare and present to the Hearing Panel a report which, together with any report provided by the ESO, will provide the Hearing Panel with sufficient information to determine whether the Member has acted in breach of the Code of Conduct and, where there has been a breach of the Code of Conduct whether any action should be taken in respect of the Member or in consequence of the breach, and what any such action should be.

- (b) Termination of the Investigation

The Investigating Officer may terminate his/her investigation at any point, where he/she is satisfied that he/she has sufficient information to enable him/her to report to the Hearing Panel and to enable the Hearing Panel to come to a considered decision on the allegation.

(c) Additional Matters

Where, in the course of his/her investigation, the Investigating Officer becomes aware of any other matter which appears to him/her to indicate a breach of the Code of Conduct by the Member other than the breach which he/she is currently investigating, the Investigating Officer shall report the matter to the Monitoring Officer who will provide the Member with details of the matter in the form set out in paragraphs 2(b)(iii) and (iv) above and invite the Member to provide a statement as to why the additional matter does not constitute a breach of the Code of Conduct. The Monitoring Officer will then determine whether to report the additional matter.

(d) Identification of those people from whom the Investigating Officer will seek information

**Following notification to the Member, the Investigating Officer will identify an initial list of persons to be interviewed, organisations from whom information is to be sought and documents to be inspected as part of the investigation. Where the Member has provided the Investigating Officer with the information requested in accordance with Paragraphs 2(e)(ii) to (iv) above, the Investigating Officer shall include in this list each document, person and organisation referred to in that response, unless he/she is of the opinion that the inclusion of that document, person or organisation would unreasonably delay the completion of the investigation rather than contribute to the accuracy of the Investigating Officer's final report. The Investigating Officer may supplement or amend this list at any stage of the investigation.**

(e) Production of documents, information and explanations

- (i) *In the course of the investigation, the Investigating Officer and any person authorised on his/her behalf may make such enquiries of any person or organisation, and request any person or organisation to provide any information which is in his/its possession or control, or provide any explanation, as he/she thinks necessary or expedient for the purposes of carrying out the investigation.*
- (ii) *In the course of the investigation, the Investigating Officer and any person authorised on his/her behalf may require any other authority concerned to provide such advice and assistance which he/she thinks may reasonably be needed for the purposes of carrying out the investigation. (Note - The authority concerned, or in the case of a Parish Council, the authority responsible for that Parish Council, can be required to meet the*

- reasonable cost of any advice and assistance so provided.)*
- (iii) In the course of the investigation, the Investigating Officer and any person authorised on his/her behalf may require any other authority concerned to afford reasonable access to such documents in the possession of that authority as he/she thinks necessary for the purposes of carrying out the investigation.

(f) Interviews

(i) *Requesting attendance*

In the course of the investigation the Investigating Officer may request any person to attend and appear before him/her or otherwise provide any information, document or explanation for the purpose of paragraph 3(e), as he/she thinks necessary for the purposes of carrying out the investigation.

(ii) *Representation*

Any person who appears before the Investigating Officer can arrange to be accompanied, at their own expense, by a solicitor or friend.

(iii) *Notes of interviews*

Where practicable, following the interview the Investigating Officer shall produce a written note of the material points of the interview, provide two copies of that note to the person interviewed and ask them to return one copy signed as a correct record of the interview, with such corrections or amendments as they may feel necessary for that purpose.

(g) Costs

The Investigating Officer may, where he/she considers that it is appropriate in order to facilitate the conduct of the investigation, pay to any person who provides any document, information, advice or explanation in response to his/her request, such fees or allowances as he/she considers to be appropriate subject to the maxima set by the authority.

(h) Reference back to the Standards Board or the Assessment Panel

(a) In relation to any allegation referred by an ESO for investigation, at any point in the course of the investigation, if the Investigating Officer is of the opinion

(i) *that the seriousness of the matters which he/she is investigating, including any additional matters identified under Paragraph 3(c) above, is such that they may merit the application of a sanction beyond the powers of the Hearing Panel, or*

(ii) during the course of the investigation new evidence has been uncovered of the conduct of the Member that breaches the Code of Conduct but that the new evidence extends the scope of the investigation beyond the allegation referred by the ESO or

*that the Member is obstructing the investigation by refusing to co-operate or*

- (iv) that there is some other substantial reason,

*he/she may, after consulting the Monitoring Officer, suspend his/her investigation and the Monitoring Officer shall then request the ESO with reasons in writing to resume his/her investigation of the matter<sup>3</sup>. Where the ESO does resume his/her investigation, the Monitoring Officer shall ensure that the Member concerned, the person who made the complaint, and the members of the Standards Committee is informed of such resumption. Where the ESO declines to resume his/her investigation, the Monitoring Officer shall instruct the Investigating Officer to resume his/her investigation.*

(b) In relation to any allegation referred by an Assessment Panel for investigation, at any point in the course of the investigation, the Investigating Officer may suspend his/her investigation and refer the matter to the Monitoring Officer if he/she is of the opinion

- (i) that as a result of new evidence or information, the matter is materially more serious or materially less serious than may have seemed apparent to the Assessment Panel when it referred the matter to the Monitoring Officer for investigation, and that the Panel would have made a different decision had it been aware of that new evidence or information, or
- (ii) that the person who is the subject of the investigation has died, or is seriously ill, or has resigned from the authority concerned and that in the circumstances it is no longer appropriate to continue with the investigation.

In forming an opinion under paragraph (b)(i) above, the Investigating Officer may take account of the failure of any person to co-operate with the investigation, an allegation that the Member concerned has engaged in a further breach of the Code of Conduct, or an allegation that another Member has engaged in a related breach of the Code of Conduct.

The Monitoring Officer may refer the matter back to the Assessment Panel for re-determination, or may require the Investigating officer to continue with the investigation. If the matter is referred for re-determination, the Monitoring Officer will instruct the Investigating Officer as appropriate in the light of the decision of the Assessment Panel.

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<sup>3</sup> Only one such request may be made during the course of an investigation.

**(i) Confidentiality**

The Investigating Officer shall as necessary request that people interviewed and anyone else aware of the investigation maintain confidentiality in order to preserve the integrity of the investigation process.

**4 The Draft Report**

- (a) Prior to issuing the draft report the Investigating Officer shall send a copy of a statement to each witnesses or party interviewed, on whose evidence he/she will rely in compiling the draft report, and request that they confirm their statement and send any comments thereon to him/her within 14 days.
- (b) When the Investigating Officer is satisfied that he/she has sufficient information to meet the requirement set out in Paragraph 3(a), or has obtained as much information as is likely to be reasonably capable of being obtained, he/she shall prepare a draft, dated report, marked confidential, setting out:
- (i) the details of the allegation;*
  - the relevant provisions of statute and of the Code of Conduct;*
  - the Member's initial response to notification of the allegation (if any);*
  - the relevant information, advice and explanations which he/she has obtained in the course of the investigation;*
  - a list of any documents relevant to the matter;*
  - a list of those persons whom he/she has interviewed and those organisations from whom he/she has sought information;*
  - a note of any person or organisation who has failed to co-operate with the investigation and the manner in which they have failed to co-operate;*
  - a statement of his/her draft findings of fact and reasoning for these;*
  - his/her conclusion as to whether the Member has or has not failed to comply with the Code of Conduct.*
- (c) **The draft report should also state that the report does not necessarily represent the Investigating Officer's final finding, and that the Investigating Officer will present a final report to the Hearing Panel once he/she has considered any comments received on the draft report.**
- (d) **The Investigating Officer shall then send a copy of his/her draft report in confidence to the Member and the person making the allegation, for comment and request that they send any written comments thereon to him/her within 14 days.**

- (e) **The Investigating Officer will not send the draft report to any witnesses.**
- (f) Responses to the draft report from the Member or the Complainant may reveal the need for further investigation. If that further investigation results in such significant changes being made the Investigating Officer may decide to issue a further draft report to the Member and the Complainant.

## **5 The Final Report**

- (a) **After the expiry of that period (or such extended period as the Investigating Officer may allow), the Investigating Officer shall reconsider and amend his/her draft report in the light of any comments received, and produce and send to the Monitoring Officer his final, dated report. The final report shall include a finding either that there has not been a failure to comply with the Code of Conduct or that there has been such a failure. The final report should state that the report represents the Investigating Officer's final findings and will be presented to the Hearing Panel, and should have appended to it copies of any documents which the Investigating Officer has relied on in reaching his/her conclusions, including background documents, records of telephone conversations, letters, and statements from interviews of witnesses or other parties etc and may include a chronology of events.**
- (b) **The Monitoring Officer shall then send a copy of the final report to the Member, advising that the Monitoring Officer will refer the report to the Hearing Panel for their consideration and an initial finding under Regulation 17. The Member will at the same time be sent a note explaining the three alternative findings that the Hearing Panel may make under Regulation 17.**
- (c) **The Monitoring Officer shall ensure that, when the agenda for the Hearing Panel is sent out to members of the Hearing Panel, that they also receive a copy of the final report. The agenda and the report shall also be sent to:**
  - (i) *The person who made the complaint;*
  - (ii) *In relation to any allegation referred by an ESO for investigation, the ESO and*
  - (iii) *The Monitoring Officer for any other Standards Committee of any other authority of which the Member is a member, if that authority has so requested*

together with, in relation to the person who made the complaint, a note explaining the three alternative findings that the Hearing Panel may make under Regulation 17.

- (d) **When the Hearing Panel considers the final, report in accordance with regulation 17, it shall make one of the following findings:**

- (i) *That it accepts the Investigating Officer's finding that the Member has not failed to comply with the Code of Conduct as set out in the allegation;*
- (ii) *That the matter should be considered at a hearing of the Hearing Panel (which will be conducted in accordance with the authority's adopted Procedure for Local Determination Hearings); or<sup>4</sup>*
- (iii) *That the matter should be referred to the Adjudication Panel for determination, but the Hearing Panel may only make such a finding if (1) the Hearing Panel first determines that the action it could take against the Member would be insufficient were a finding of failure to be made and (2) the President or Deputy President of the Adjudication Panel has agreed to accept the referral.*

**(e) Where the Hearing Panel finds as set out in Paragraph 5(d)(i) above (no failure to comply with the Code of Conduct), the Monitoring Officer shall, as soon as practicable thereafter, send a written notice of that finding and the reasons on which it was based, to:**

- (i) *The Member;*
- (ii) *In relation to any allegation referred by an ESO for investigation, the ESO;*
- (iii) *The Standards Committee,*
- (iv) *The Monitoring Officer for any other Standards Committee concerned;*
- (v) *The Clerk of any Parish Council concerned and*
- (vi) *The person who made the allegation.*

and shall ask the Member whether he objects to the publication in at least one local newspaper and (in both cases at the discretion of the Hearing Panel) on the authority's web-site and in any other publication, of a notice that there has been no failure to comply with the Code of Conduct, and arrange for the publication of such a notice in the local newspaper and otherwise as directed by the Hearing Panel unless the Member so objects.

**(f) Where the Hearing Panel finds as set out in Paragraph 5(d)(ii) above (that the matter should be considered at a formal hearing) the Monitoring Officer will arrange for the matter be considered at a hearing of the Hearing Panel which will be conducted under the authority's adopted Procedure for Local Determination Hearings.**

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<sup>4</sup> Note that this is not a finding that there has been a failure to comply with the Code of Conduct for Members, but simply that, on the basis of the Investigating Officer's report, the Hearing Panel is not at this stage prepared to come to a final conclusion that there has been no such failure to comply, and that the matter merits consideration at a full hearing.

- (g) Where the Hearing Panel finds as set out in Paragraph 5(d)(iii) above (that the matter should be referred to the Adjudication Panel) the Monitoring Officer will arrange to refer the matter to the President or Deputy President of the Adjudication Panel as appropriate.**



## **APPENDIX 2**

### **EAST SUSSEX FIRE AUTHORITY**

#### **Procedure for Local Determination Hearings of Allegations of Member Misconduct**

Introduction and Summary

1. Interpretation
2. Modification of Procedure
3. Representation
4. Pre-hearing Procedure (Ethical Standards Officer's Report)
5. Pre-hearing Procedure (Local Investigation)
6. Legal Advice to the Hearing Panel
7. Setting the scene at the Hearing
8. Preliminary procedural issues
9. The Hearing of the allegation of failure to comply with the Code of Conduct
10. If the Member has not failed to follow the Code of Conduct
11. Action consequent upon a failure to comply with the Code of Conduct
12. Reference back to the Ethical Standards Officer or Investigation Officer

13. The close of the Hearing

14. Appeals

## Introduction and Summary

This note sets out the procedure which will be followed in the local determination of allegations of misconduct by Members. It takes into account the statutory provisions in the Local Government Act 2000, the Standards Committee (England) Regulations 2008 and relevant statutory guidance.

The procedure enables a Hearing Panel to receive an investigation report and hear both sides of the matter. The Hearing Panel can then come to an informed decision as to whether the Member has failed to comply with the authority's Code of Conduct for Members and upon any consequential action.

The Hearing Panel acts in an inquisitorial manner, rather than an adversarial manner, seeking the truth in relation to the conduct of the Member on the balance of the information available to it, and may commission further investigation or information if it needs to do so in order to come to a decision.

The Hearing Panel will normally consist of three persons (which is the minimum number required) including at least one independent person and at least one Member of the authority. The Hearing Panel will be chaired by an independent person.

## Interpretation

[Note – in the final version the definitions will be put in alphabetical order.]

**“Code of Conduct” means the Code of Conduct for Members.**

**“Member”, except where the context otherwise requires, means the member or co-opted member of the authority who is the subject of the allegation being considered by the Hearing Panel. It also includes the Member's nominated representative.**

**“Investigating Officer” as appropriate in the circumstances means the Ethical Standards Officer who referred the report to the authority, and includes his or her nominated representative or the person appointed by the Monitoring Officer to undertake the investigation (which may include the Monitoring Officer and his or her nominated representative).**

**“The matter” is the subject matter of the Investigating Officer's report.**

**“The Hearing Panel” refers to the Standards Panel or its Sub-committee whose role it is to hear cases and make local determinations on complaints about alleged breaches of the Code of Conduct.**

**“The Committee Support Officer” means a person given responsibility by the authority for supporting the Hearing Panel's discharge of its functions, acting as clerk for the hearing including recording the Hearing Panel's decisions. (This officer may also be the Legal Adviser.)**

**‘Legal Adviser’ means a person given responsibility by the authority for providing legal advice to the Hearing Panel. This may be the Monitoring Officer, another legally qualified or suitably experienced officer of the authority, or someone appointed for**

**this purpose from outside the authority.** <sup>5</sup>(This officer may also be the Committee Support Officer.)

- (h) “Regulation 17” and “Regulation 20” means regulations 17 and 20 respectively of the Standards Committee (England) Regulations 2008.

**“The Chair” refers to the person presiding at the hearing.**

- (h) “ESO” means Ethical Standards Officer

### **Modification of Procedure**

The Chair may agree to vary this procedure in any particular instance where he/she is of the opinion that such a variation is necessary in the interests of fairness and does not conflict with any statutory requirement.

### **Representation**

The Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Hearing Panel, another person. Note that the cost of such representation must be met by the Member, unless the Hearing Panel has expressly agreed to meet all or any part of that cost.<sup>6</sup>

### **Pre-hearing Procedure (ESO’s Report)**

**Upon reference of a matter from an ESO for local determination following completion of the ESO’s report, the Monitoring Officer shall:**

- (a) **Arrange a date for the Hearing Panel to hear the matter;**
- (b) **Send a copy of the ESO’s report to the Member, advise him/her of the date, time and place for the hearing, provide the Member with a copy of the determination procedure and outline the Member’s rights and responsibilities during the hearing process;**

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<sup>5</sup> The role of the Investigating Officer must be kept distinct from the roles of Committee Support Officer and Legal Adviser to the Hearing Panel. The Investigating Officer must be a different person from the person or persons who act as committee support officer and/or legal adviser to the Hearing Panel in respect of the allegation.

<sup>6</sup> Regulations under Section 101 of the Local Government Act 2000 grant authorities a discretion to provide an indemnity or to provide insurance to Members to meet the costs which they may incur in “Part 3 proceedings” (investigations, hearings or other proceedings under Part III of the 2000 Act), but any such indemnity or insurance is required to be subject to a requirement to repay any sums received in the event that the member is found to have failed to comply with the Code of Conduct.

- (c) **Send a copy of the ESO's report to the person who made the allegation, advise him/her of the date, time and place for the hearing and provide him/her with a copy of the determination procedure;**
- (d) **Request the Member to complete and return the model Pre-Hearing Forms A, B, C, D and E, as recommended by the Standards Board for England or similar as appropriate within 14 days of receipt;**
- (e) **In the light of any Pre-Hearing Forms returned by the Member, determine whether the Hearing Panel will require the attendance of the ESO and any additional witnesses at the hearing to enable it to come to a properly considered conclusion at the hearing, and arrange for their attendance;**
- (f) **Send a copy of the Member's response to the ESO for his/her comments, confirm the time date and place of the hearing and invite the ESO to confirm within 14 days of receipt whether he/she:**
  - (i) wants to be represented at the hearing;
  - (ii) wants to call relevant witnesses to give evidence to the hearing panel;
  - (iii) wants any part of the hearing held in private; and
  - (iv) wants any part of the ESO's report or other relevant documents to be withheld from the public.
- (g) Notify the witnesses who will be required to attend the hearing of the date time and place of the hearing and that their attendance is required.
- (h) *Prepare a Pre-Hearing Summary Report;*
  - (i) Setting out the date, time and place of the hearing;
  - (ii) Summarising the allegation;
  - (iii) Outlining the main facts of the case that are agreed;
  - (iv) Outlining the main facts of the case that are not agreed;
  - (v) Noting whether the Member concerned and the ESO will go to or be represented at the hearing;
  - (vi) Listing those witnesses, if any, who will be asked to give evidence; and
  - (vii) Outlining the proposed procedure for the hearing.

- (i) **Arrange that the agenda for the hearing, together with the Pre-Hearing Summary Report and copies of any relevant documents are sent, at least two weeks before the hearing, to:**

- (i) All members of the Hearing Panel who will conduct the hearing;*
- (ii) The Member;*
- (iii) The person who made the allegation, and*
- (iv) The ESO.*

#### **Pre-Hearing Process (Local Investigation)**

Upon receipt of the final report of the Investigating Officer including a finding that the Member failed to comply with the Code of Conduct or if the Hearing Panel has found under Regulation 17 that a report from the Investigating Officer should be considered at a Hearing Panel, the Monitoring Officer shall:

- (a) Arrange a date for the Hearing Panel to hear the matter<sup>7</sup>;
- (b) Send a copy of the Investigating Officer's report to the Member and advise him/her of the date, time and place for the hearing, provide the Member with a copy of the determination procedure and outline the Member's rights and responsibilities during the hearing process;
- (c) Send a copy of the Investigating Officer's report to the person who made the allegation and advise him/her of the date, time and place for the hearing and provide him/her with a copy of the determination procedure;
- (d) Request the Member to complete and return the model Pre-Hearing Forms A, B, C, D and E, as recommended by the Standards Board for England or similar as appropriate within 14 days of receipt;

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<sup>7</sup> The hearing must normally be conducted within 3 months of the date when the matter is referred by the ESO to the Monitoring Officer (in the case of an ESO investigation) or the date when the Investigating Officer delivers his final report to the Monitoring Officer (in the case of local investigations). There must also be a gap of at least 14 days between the date on which the Monitoring Officer sends the report to the Member, unless the member agrees to the hearing being earlier.

- (e) In the light of any Pre-Hearing Forms returned by the Member, determine whether the Hearing Panel will require the attendance of the Investigating Officer and any additional witnesses at the hearing to enable it to come to a properly considered conclusion and arrange for their attendance;
- (f) **Send a copy of the Member's response to the Investigating Officer for his/her comments, confirm the time, date and place of the hearing and invite the Investigating Officer to confirm within 14 days of receipt whether he/she:**
  - (i) wants to be represented at the hearing;
  - (ii) wants to call relevant witnesses to give evidence to the hearing panel;
  - (iii) wants any part of the hearing held in private; and
  - (iv) wants any part of the Investigating Officer's report or other relevant documents to be withheld from the public.
- (g) Notify the witnesses who will be required to attend the hearing of the date, time and place of the hearing and that their attendance is required.
- (h) Prepare a Pre-Hearing Summary Report:
  - (i) Setting out the date, time and place of the hearing;
  - (ii) Summarising the allegation;
  - (iii) Outlining the main facts of the case that are agreed;
  - (iv) Outlining the main facts of the case that are not agreed;
  - (v) Noting whether the Member concerned and the Investigating Officer will go to or be represented at the hearing;
  - (vi) Listing those witnesses, if any, who will be asked to give evidence; and
  - (vii) Outlining the proposed procedure for the hearing.
- (i) **Arrange that the agenda for the hearing, together with the Pre-Hearing Summary Report and copies of any relevant documents are sent, at least two weeks before the hearing, to:**

- (i) All members of the Hearing Panel;*
- (ii) The Member;*
- (iii) The person who made the allegation, and*
- (iv) The Investigating Officer.*

## **Legal Advice to the Hearing Panel**

The Hearing Panel may take legal advice 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 Hearing Panel should be shared with the Member and the Investigating Officer if they are present.<sup>8</sup>

## **Setting the scene at the hearing**

At the start of the hearing, the Chair shall introduce each of the members of the Hearing Panel, the Member (if present), the Investigating Officer (if present) and any other officers present, and shall then explain the procedure which the Hearing Panel will follow in the conduct of the hearing.

## **Preliminary procedural issues**

The Hearing Panel shall then deal with the following preliminary procedural matters in the following order:

### **Disclosures of interest**

The Chair shall ask members of the Hearing Panel to disclose the existence and nature of any personal 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 Hearing Panel is quorate<sup>9</sup>

#### **(c.) Hearing procedure**

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<sup>8</sup> In the interests of openness, the Hearing Panel may prefer to receive any such advice in the main hearing room in the presence of the Investigating Officer and the Member. Where this is not practicable, the Legal Adviser should repeat in the presence of the Investigating Officer and the Member the advice which he/she has tendered.

<sup>9</sup> A meeting of the Hearing Panel is not quorate unless at least three members of the Hearing Panel are present for the duration of the meeting. See the Introduction for further information about the composition of the Panel.



The Chair shall confirm that all present know the procedure which the Hearing Panel will follow in determining the matter.

**(d) Proceeding in the absence of the Member**

If the Member is not present at the start of the hearing:

- (i) *the Chair shall ask whether the Member has indicated his/her intention not to attend the hearing;*
- (ii) *the Hearing Panel shall then consider any reasons which the Member has provided for not attending the hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend;*
- (iii) *if the Hearing Panel is satisfied with such reasons, it shall adjourn the hearing to another date;*
- (iv) *if the Hearing Panel is not satisfied with such reasons, or if the Member has not given any such reasons, the Hearing Panel shall decide whether to consider the matter and make a determination in the absence of the Member or to adjourn the hearing to another date.*

**(e) Exclusion of Press and Public**

The Hearing Panel may exclude the press and public from its consideration of this matter where it appears likely that confidential or exempt information will be disclosed in the course of this consideration.

The Chair shall ask the Member, the Investigating Officer and the Legal Adviser or Committee Support Assistant whether they wish to ask the Hearing Panel 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 Hearing Panel shall then determine whether to exclude the press and public from all or any part of the hearing.

Where the Hearing Panel does not resolve to exclude press and public, the agenda and any documents which have been withheld from the press and public in advance of the meeting shall then be made available to the press and public.

**The hearing of the allegation of failure to comply with the Code of Conduct<sup>10</sup>**

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<sup>10</sup> The model procedure recommended by the Standards Board suggests that the Hearing Panel should first determine findings of fact and then determine whether there has been a failure to comply with the Code of Conduct. These two are so closely connected that the Hearing Panel may find that it can conveniently determine the two together without any loss of fairness.

The Hearing Panel will then address the issue of whether the Member failed to comply with the Code of Conduct in the manner set out in the Investigating Officer's report.<sup>11</sup>

- (a) The Chair shall ask the Member to confirm that he/she maintains the position as set out in the Pre-Hearing Summary Report.
- (b) The Pre-Hearing Process Summary

The Chair will ask the Legal Adviser or the Committee Support Officer<sup>12</sup> to present the Pre-Hearing Summary Report, highlighting any points of difference in respect of which the Member has stated that he/she disagrees with any finding of fact in the Investigating Officer's report. The Chair will then ask the Member to confirm that this is an accurate summary of the issues and ask the Member to identify any additional points upon which he/she disagrees with any finding of fact in the Investigating Officer's report.

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<sup>11</sup> Note that the Hearing Panel's consideration is limited to a possible failure to comply with the Code of Conduct in the terms set out in the Investigating Officer's report. It is possible that, in the course of their consideration, the Hearing Panel apprehends that the Member may have failed to comply with the Code of Conduct in some other manner. Note that such a possible additional or alternative failure will not be within the remit of the Hearing Panel as, at that stage, the Member will not have had notice of the Hearing Panel's consideration of the possible additional or alternative failure and that it would therefore be unfair to proceed to consider that second matter at the hearing into the first alleged failure. Where the Hearing Panel does apprehend a possible additional or alternative failure, a failure by a different Member, or a failure in respect of the Code of Conduct of another authority, they may refer the second matter to the Monitoring Officer with a view to a separate allegation being made.

<sup>12</sup> **Tasks such as the following will be undertaken by the Legal Adviser or Committee Support Officer as appropriate in the circumstances (and both roles may be performed by the same person):-**

- (i) the conduct of the pre-hearing process;
- (ii) the presentation of an introductory report to the Hearing Panel at the commencement of the hearing setting out the outcomes of the pre-hearing process;
- (iii) the giving of legal advice to the Hearing Panel;
- (iv) the recording of the Hearing Panel's determination; and
- (iv) the distribution and publication of any required notices of the Hearing Panel's determination.

- (i). *If the Member admits that he/she has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report, the Hearing Panel may then make a determination that the Member has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report and proceed directly to consider whether any action should be taken (Paragraph 11).*
  - (ii). *If the Member identifies additional points of difference, the Chair shall ask the Member to explain why he/she did not identify these points as part of the pre-hearing process. He/she shall then ask the Investigating Officer (if present) whether he/she is in a position to deal with those additional points of difference directly or through any witnesses who are in attendance or whose attendance at the hearing can conveniently be arranged. Where the Hearing Panel is not satisfied with the Member's reasons for failing to identify each additional point of difference as part of the pre-hearing process, it may decide that it will continue the hearing but without allowing the Member to challenge the veracity of those findings of fact which are set out in the Investigating Officer's report but in respect of which the Member did not identify a point of difference as part of the pre-hearing process, or it may decide to adjourn the hearing to allow the Investigating Officer and/or any additional witnesses to attend the hearing.*
- (c) Presenting the Investigating Officer's report
- (i). *If the Investigating Officer is present, the Chair will then ask the Investigating Officer to present his/her report, having particular regard to any points of difference identified by the Member and why he/she concluded, on the basis of his/her findings of fact, that the Member had failed to comply with the Code of Conduct. The Investigating Officer may call witnesses as necessary to address any points of difference.*
  - (ii). *If the Investigating Officer is not present, the Hearing Panel shall only conduct a hearing if they are satisfied that there are no substantial points of difference or that any points of difference can be satisfactorily resolved in the absence of the Investigating Officer. In the absence of the Investigating Officer, the Hearing Panel shall determine on the advice of the Legal Adviser or Committee Support Assistant which witnesses, if any, to call. Where such witnesses are called, the Chair shall draw the witnesses' attention to any relevant section of the Investigating Officer's report and ask the witness to confirm or correct the report and to provide any relevant evidence.*
  - (iii). *No cross-examination shall be permitted but, at the conclusion of the Investigating Officer's report and/or of the evidence of each witness, the Chair shall ask the Member if there are any matters upon which the Hearing Panel should seek the advice of the Investigating Officer or the witness.*
- (d) The Member's response

- (i). *The Chair shall then invite the Member to respond to the Investigating Officer's report and to call any witnesses as necessary to address any points of difference.*
- (ii). *No cross-examination shall be permitted but, at the conclusion of the Member's evidence and/or of the evidence of each witness, the Chair shall ask the Investigating Officer if there are any matters upon which the Hearing Panel should seek the advice of the Member or the witness.*

**(e) Witnesses**

- (i). *The Hearing Panel shall be entitled to refuse to hear evidence from the Investigating Officer, the Member or a witness unless they are satisfied that the witness is likely to give evidence which they need to hear in order to be able to determine whether there has been a failure to comply with the Code of Conduct.*
- (ii). *Any member of the Hearing Panel may address questions to the Investigating Officer, to the Member or to any witness.*

**(f) Additional Evidence**

At the conclusion of the evidence, the Chair shall check with the members of the Hearing Panel that they are satisfied that they have sufficient evidence to come to a considered conclusion on the matter.

- (g) If the Hearing Panel at any stage prior to determining whether there was a failure to comply with the Code of Conduct are of the opinion that they require additional evidence on any point in order to be able to come to a considered conclusion on the matter, the Hearing Panel may (on not more than one occasion) adjourn the hearing and make a request to the local Investigating Officer to seek and provide such additional evidence and to undertake further investigation on any point specified by the Hearing Panel.

- (h) Determination as to whether there was a failure to comply with the Code of Conduct.

- (i). *At the conclusion of the Member's response, the Chair shall ensure that each member of the Hearing Panel is satisfied that he/she has sufficient information to enable him/her to determine whether there has been a failure to comply with the Code of Conduct as set out in the Investigating Officer's report.*
- (ii). *Unless the determination merely confirms the Member's admission of a failure to comply with the Code of Conduct (as set out in Paragraph 9(b)(i) above), the Hearing Panel shall then retire to another room to consider in private whether the*

*Member did fail to comply with the Code of Conduct as set out in the Investigating Officer's report.*

- (iii). The Hearing Panel shall take its decision on the balance of probability based on the evidence which it has received at the hearing.*
- (iv). The Hearing Panel's function is to make a determination on the matter. It may, at any time, return to the main hearing room in order to seek additional evidence from the Investigating Officer, the Member or a witness, or to seek the legal advice. If it requires any further information, it may adjourn on not more than one occasion and instruct an officer or request the Member to produce such further evidence to the Hearing Panel.*
- (v) At the conclusion of the Hearing Panel's consideration, the Hearing Panel shall consider whether it is minded to make any recommendations to the authority with a view to promoting high standards of conduct among Members.*
  
- (vi) The Hearing Panel shall then return to the main hearing room and the Chair will state the Hearing Panel's principal findings of fact and their determination as to whether the Member failed to comply with the Code of Conduct as set out in the Investigating Officer's report.*

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

If the Hearing Panel determines that the Member has not failed to follow the Code of Conduct in the manner set out in the Investigating Officer's report:

- (a) The Chair will announce the Hearing Panel's decision that the Member has not failed to follow the Code of Conduct in respect of the alleged matter. The Chair will then move on to make any other announcements (if appropriate) as follows:*
- (b) If the Hearing Panel apprehends, from the evidence which they have received during the hearing, that the Member may have failed to comply with the Code of Conduct (other than the matter which the Hearing Panel has just determined) and that this potential failure ought to be assessed, the Chair shall outline the Hearing Panel's concerns and state that the Hearing Panel will refer this additional or alternative failure to the Monitoring Officer with a view to a further allegation being made to the relevant Standards Committee.*
- (c) The Chair should then set out any recommendations which the Hearing Panel is minded to make to the authority with a view to promoting high standards of conduct among Members and seek the views of the Member, the Investigating Officer and the Legal Adviser or Committee Support Officer before the Hearing Panel finalises any such recommendations.*

- (d) Finally, the Chair should ask the Member whether he/she wishes the authority not to publish its finding that he/she had not failed to comply with the Code and its reasons for that finding in a local newspaper and (in both cases at the discretion of the Hearing Panel) on the authority's web-site and in any other publication,<sup>13</sup>.

**Action consequent upon a failure to comply with the Code of Conduct**

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<sup>13</sup> The summary of the Hearing Panel's decision and reasons for it must be published in one or more local newspapers that are independent of the authority, and otherwise as the Hearing Panel directs unless the Hearing Panel finds that the Member did not fail to follow the Code of Conduct, in which case the Member is entitled to ask that there is no such publication.

**(a) The Chair will announce the Hearing Panel's decision that the Member has failed to follow the Code of Conduct in respect of the alleged matter and shall ask the Investigating Officer (if present, or otherwise the Legal Adviser or Committee Support Officer) whether, in his/her opinion, the Member's failure to comply with the Code of Conduct is such that the Hearing Panel should impose a sanction and, if so, what would be the appropriate sanction, or whether the Hearing Panel should take no further action.<sup>14</sup>**

**(b) The Chair will then ask the Member to respond to the advice.**

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<sup>14</sup> The sanctions which are available to the Hearing Panel under the Standards Committee (England) Regulations 2008 are any of the following either individually or in combination:

- (i) censure of that member (which is the only sanction that may be imposed for a person who has ceased to be a Member);
- (ii) restriction for a period not exceeding six months of that member's access to the premises of the authority or that member's use of the resources of the authority, provided that such restrictions imposed upon the member -
  - (a) are reasonable and proportionate to the nature of the breach; and
  - (b) do not unduly restrict the person's ability to perform the functions of a member.
- (iii) partial suspension of that member for a period not exceeding six months;
- (iv) suspension of that member for a period not exceeding six months;
- (v) that the member submits a written apology in a form specified by the Hearing Panel;
- (vi) that the member undertakes such training as the Hearing Panel specifies;
- (vii) that the member participate in such conciliation the Hearing Panel specifies;
- (viii) partial suspension of the member for a period not exceeding six months or until such time as the member submits a written apology in a form specified by the Hearing Panel;
- (ix) partial suspension of the member for a period up not exceeding six months or until such time as the member has undertaken such training or has participated in such conciliation as the Hearing Panel specifies;
- (x) suspension of the member for a period not exceeding six three months or until such time as the member has submitted a written apology in a form specified by the Hearing Panel;
- (xi) suspension of the member for a period not exceeding six months or until such time as the member has undertaken such training or has participated in suchconciliation as the Hearing Panel specifies.

Any sanction imposed shall commence immediately unless the Hearing Panel directs (for any sanction other than censure) that it shall commence on any date specified by the Hearing Panel within six months of the date of the hearing.

- (c) The Chair will then ensure that each member of the Hearing Panel is satisfied that he/she has sufficient information to enable him/her to take an informed decision as to whether to impose a sanction and (if appropriate) as to the form of the sanction.**
- (d) Any member of the Hearing Panel may address questions to the Investigating Officer or to the Member as necessary to enable him/her to take such an informed decision.**
- (e) The Chair should then set out any recommendations which the Hearing Panel is minded to make to the authority with a view to promoting high standards of conduct among Members and seek the views of the Member, the Investigating Officer and the Legal Adviser or Committee Support Officer;**
- (f) The Hearing Panel shall then retire to another room to consider in private whether to impose a sanction, (where a sanction is to be imposed) what sanction to impose and when that sanction should take effect, and any recommendations which the Hearing Panel will make to the authority.**
- (g) At the completion of their consideration, the Hearing Panel shall return to the main hearing room and the Chair shall state the Hearing Panel's decisions as to whether (1) to take no further action or (2) to impose a sanction and (where a sanction is to be imposed) the nature of that sanction, and when it should take effect, together with the principal reasons for those decisions, and any recommendations which the Hearing Panel will make to the authority.**

#### **Reference back to the Ethical Standards Officer or Investigation Officer**

- (a) At any stage prior to the conclusion of the hearing, the Hearing Panel may adjourn the hearing and make a written request, with reasons, to the ESO concerned that the matter be referred back to the ESO for further investigation. If the request is accepted, the hearing panel shall cease its consideration of the matter. If it is not accepted, the Hearing Panel shall continue its consideration of the matter and make no further such requests.**
- (b) At any stage prior to the conclusion of the hearing, the Hearing Panel may adjourn the hearing and, on one occasion only, require the Monitoring Officer to seek further information or undertake further investigation on any point specified by it.**

#### **The close of the hearing**

- (a) The Hearing Panel will announce its decision on the day of the hearing and provide the Committee Support Officer with a short written statement of their decision, which the Committee Support Officer will deliver to the Member as soon as practicable after the close of the hearing;**



**(b) The Chair will thank all those present who have contributed to the conduct of the hearing and formally close the hearing;**

**(c) Following the close of the hearing, the Committee Support Officer will agree a formal written notice of the Hearing Panel's determination, including the finding and the reasons for it, and the Monitoring Officer shall arrange for the distribution of that notice within two weeks of the close of the hearing, to:**

- (i) the Member
- (ii) the Standards Board
- (ii) the Investigating Officer and / or the ESO
- (iii) the members of the Standards Committee
- (iv) The Standards Committee of any other local authority concerned
- (v) the Clerk any Parish Council concerned
- (vi) the person who made the allegation

and (subject to Paragraph 10(d) if the Member had not failed to follow the Code of Conduct) shall arrange for a summary of the notice to be published in one or more newspapers independent of the council and circulating in the area and (in both cases at the discretion of the Hearing Panel) on the authority's web-site and in any other publication. The notice shall contain the information required by Regulation 20..

## **Appeals**

**The Member may seek permission to appeal against the decision of the Hearing Panel and, if appropriate, apply for suspension of any sanction imposed until such time as any appeal is determined, by giving written notice to the President of the Adjudication Panel for England, ensuring that his/her notice sets out**

- (a) the finding against which he/she seeks to appeal,**
- (b) whether the appeal is against the finding of failure to comply with the Code of Conduct, the sanction imposed or both,**
- (c) the grounds of the appeal,**
- (d) whether any application for suspension of any sanction is made and**
- (e) whether or not the member consents to the appeal being conducted by way of written representations,**

**The notice must be received by the President within 21 days of the date of the Member's receipt of the notification of the finding Paragraph 13(a).**

