Standards Hearings Sub-Committee Procedure Rules

These procedure rules apply to meetings of the Standards Hearings Sub-Committee, or the Audit and Governance Committee, when sitting to hear and determine a member code of conduct complaint referred to it by the Monitoring Officer.

1.0 DEFINITIONS

Complainant(s)	The person/people making the complaint.
Subject Member	The Councillor, co-optee, or Town or Parish Councillor against whom an allegation has been made.
Appointed representative	The Subject Member may be represented or accompanied during the meeting by a Solicitor, Counsel or another person.
Standards Hearings Sub-Committee	A Sub-Committee of the Audit and Governance Committee in accordance with the provisions of the Local Government Act 1972.A meeting of the Standards Hearings Sub-Committee will consider whether the Subject Member has breached the Code of Conduct. Comprising 3 members of the Audit and Governance Committee, appointed by the Audit and Governance Committee.
Independent Person	An Independent Person will be invited by the Monitoring Officer to attend the Standards Hearings Sub-Committee as a Member of the Sub-Committee. Their views are sought and taken into consideration before the Sub-Committee takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct, in accordance with the provisions of the Localism Act 2011, and as to any action to be taken following a finding of failure to comply with the Code of Conduct
Town and Parish Council Representative	In the event that the allegations relate to a town or parish councillor, a town and parish council representative from another town or parish council may attend in an advisory capacity.
Investigating Officer	The person appointed by the Monitoring Officer to undertake a formal investigation on behalf of the

	Monitoring Officer. This person may be another Officer of the Council, an Officer of another Council or an external third-party investigator appointed for the purpose. The investigating officer operates strictly as a neutral fact gatherer and presenter of findings.
Investigating Officer's report	The report of the Investigating Officer to the Monitoring Officer, setting out their findings and recommendations in respect of the allegation.
Legal Advisor	The Officer responsible for providing legal advice to the Standards Hearings Sub-Committee. This may be the Monitoring Officer, another legally qualified Officer, or an external third-party legal advisor appointed for the purpose.
Chair	The Chair of the Standards Hearings Sub-Committee elected by that Sub-Committee to chair meetings for the municipal year. If this person is not available, the Sub-Committee will elect a Chair.
Code	The Members' Code of Conduct for the relevant Authority formally adopted by it at the relevant time.
The Monitoring Officer	The Officer designated as such by West Oxfordshire District Council in accordance with section 5 of the Local Government and Housing Act 1989.
Exempt Information	As defined in Section 100A and Schedule 12A to the Local Government Act 1972
Exceptional circumstances	When 'Exceptional Circumstances' are cited, it is for the Monitoring Officer to decide whether fairness, public interest, or procedural integrity genuinely justify departing from the usual process.

2.0 INTRODUCTION

2.1 Where the Monitoring Officer considers that it is in the public interest for a complaint to be considered by the Standards Hearings Sub-Committee, a Sub-Committee meeting will be convened, to determine whether the Subject Member has failed to comply with the Code of Conduct. Where there is more than one Subject Member in relation to a single complaint, the Monitoring Officer may agree that the complaint against each Subject Member can be determined at a single meeting. In such instances the Sub-Committee will stick to the Determination Procedure (Section 5) as closely as possible while allowing for the complaint against each Subject Member to be heard together.

2.2 The Monitoring Officer will seek to convene the Sub-Committee meeting within a maximum of 25 working days of receipt of the final Investigator's report or as soon as practicably possible thereafter. The Standards Hearings Sub-Committee will comprise 3 members appointed to that Sub-Committee by the Audit and Governance Committee, plus an Independent Person allocated to each meeting on a case by case basis by the Monitoring Officer, to act as a co-opted member of that Sub-Committee. For a meeting of the Standards Hearings Sub-Committee to be quorate and proceed, three elected members of the Standards Hearings Sub-Committee plus an Independent Person must be present.

3.0 PRE-HEARING PROCESS

3.1 The Monitoring Officer shall invite the Subject Member to give a response in writing to the Investigator's report.

3.2 If the Subject Member provides a written response to the Investigation Report (which may include written evidence), this should be provided to the Monitoring Officer only, no later than 7 clear days before the meeting to allow for its inclusion in the reports pack. The Subject Member should not otherwise engage with members of the Sub-Committee.

3.3 The Subject Member may be represented or accompanied at the meeting, if they so choose. The Subject Member should notify the Monitoring Officer of the name of any person who will represent or accompany them in advance of the meeting. In the event of multiple complainants, one representative should be put forward to present on behalf of all complainants (the onus is on the complainants to prepare and ensure their representative is fully informed in advance of the hearing).

3.4 Any pre-hearing training or briefing sessions for the members of the Sub-Committee would not be formal meetings and would not be open to the Complainants or Subject Members.

4.0 DOCUMENTATION

4.1 Standards Hearings Sub-Committee meetings are subject to the normal rules for publication of Council Agendas and Access to Information.

4.2 The Agenda papers for the Standards Hearings Sub-Committee will include:

- Complaint form and documentation
- Subject Member's written response
- Investigating Officer's report
- Monitoring Officer report

- For reference: Code of Conduct, Standards Hearings Sub-Committee Procedure Rules

4.3 The agenda and documents will be published under the Council's rules for exempt information. Prior to the Standards Hearings Sub-Committee meeting, any documentation issued or exchanged during the process must be treated by all recipients as confidential until the Standards Sub-Committee resolve whether or not the press and public should be excluded from the meeting at which the allegations are going to be heard.

4.4 If the Standards Hearings Sub-Committee agrees that the meeting should be held in public, the Investigation Report will be made available to the press and public in attendance at the meeting. The Chair may, at their discretion, allow a short adjournment of the meeting to enable them to read the report.

5.0 DETERMINATION HEARING PROCEDURE

5.1 The quorum for a Sub-Committee meeting will be three elected Members plus an Independent Person. Substitute Members are allowed only from the membership of the Audit and Governance Committee. Members will only be able to sit on the Standards Hearings Sub-Committee if they have undertaken standards training.

5.2 The Sub-Committee will be assisted on matters of law and procedure by the Legal Advisor. The Sub-Committee may take legal advice, in private, if necessary, from the Legal Advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given should be shared with the Subject Member and the Investigating Officer.

5.3 The hearing will normally be held in public. However, the Sub-Committee will consider, having regard to any representations made by the Investigating Officer and/or by the Subject Member and advice from the Monitoring Officer and/or Legal Advisor as to the public interest, whether to hear the matter, after the passing of a resolution to exclude the press and public from the meeting. Any such resolution may only be passed on the grounds set out in Section 100A and Schedule 12A to the Local Government Act 1972.

5.4 The Subject Member may be represented or accompanied by Counsel, a Solicitor or any other person.

5.5 Normal hearing rules will apply in terms of providing opportunities to test evidence, subject to the principles of natural justice and the Human Rights Act 1998.

5.6 The meeting will proceed in the absence of the Subject Member unless this would be unfair. If the Subject Member is unable to attend, they are required

to notify the Monitoring Officer in advance of the meeting with reasons for their non-attendance.

5.7 The Standards Hearings Sub-Committee meeting is not a court of law. Therefore (save as provided for in paragraph 5.13 below) there will be no oral evidence heard at the meeting. The Standards Hearings Sub-Committee may consider any evidence (including hearsay evidence) which it considers relevant to its determination of the complaint and may attach whatever weight it considers appropriate to that evidence.

5.8 In the event that the allegations relate to a town or parish councillor, a town and parish council representative from a different town or parish council from the Subject Member(s) may attend in an advisory capacity at the invitation of the Council's Monitoring Officer. Their role will be limited to explaining the role and duties of a town and parish councillor to the Sub-Committee, if necessary.

Preliminary business

5.9 The first item of business at the first Sub-Committee meeting in each civic year is for the Sub-Committee to elect a Chair for the remainder of that civic year. If a Chair has already been elected but is not present at the meeting, the Sub-Committee will elect a Chair for that particular meeting.

5.10 The Standards Hearings Sub-Committee will follow usual committee procedures for apologies, and declarations of interests.

5.11 The Sub-Committee will consider whether to pass a resolution to exclude the press and public from the meeting. Any such resolution may only be passed on the grounds set out in Section 100A and Schedule 12A to the Local Government Act 1972. If the Sub-Committee determine that the hearing can take place in public session, the papers will be made available to any press and public in attendance

5.12 The Chair will introduce the Members of the Sub-Committee, the Independent Person, the Legal Advisor, the Investigating Officer, the Subject Member and any other persons present.

5.13 The Legal Advisor will give a brief outline of the allegation before the Sub-Committee, namely that the Subject Member has failed to comply with the Code of Conduct, and outline the procedure to be followed and confirm that those present understand it.

Investigating Officer's case

5.14 The Investigating Officer will present the report into the allegation against the Subject Member including any findings of fact and make representations to substantiate the conclusion that the Subject Member has failed to comply

with the Code of Conduct. Save for exceptional circumstances, the Sub-Committee will not hear oral evidence from witnesses called by the Investigating Officer, as evidence of such witnesses will have been dealt with in the Investigation Report.

5.15 The Subject Member (or their representative) may question the Investigating Officer through the Chair.

5.16 The Sub-Committee Members may question the Investigating Officer.

5.17 The Independent Person may question the Investigating Officer.

5.18 The Chair will ensure that any questions are necessary and will assist the Sub-Committee in determining the complaint.

Subject Member's case

5.19 The Subject Member (or their appointed representative) will present the case in relation to the Investigating Officer's findings and make representations about why the Subject Member considers that they did not fail to comply with the Code of Conduct. If the Subject Member admits that they breached the Code of Conduct the Sub-Committee may move to paragraph 5.32 below. Save for exceptional circumstances, the Sub-Committee will not hear oral evidence (including character evidence) from witnesses called by the Subject Member, as evidence of such witnesses should have been made available to the Investigating Officer and/or dealt with in the Subject Member's written response to the Investigation Report.

5.20 The Investigating Officer may question the Subject Member through the chair.

5.21 The Sub-Committee may question the Subject Member.

5.22 The Independent Person may question the Subject Member

5.23 The Chair will ensure that any questions are necessary and will assist the Sub-Committee in determining the complaint.

Summing up

5.24 The Investigating Officer will sum up the case in relation to the findings in their report.

5.25 The Subject Member (or their appointed representative) will sum up the case in relation to the findings in the Investigating Officer's report of whether there has been a breach of the Code.

5.26 The Independent Person will give their views to the Sub-Committee as to whether or not the Code of Conduct has been breached and these will be recorded in the Minutes of the meeting.

Determination as to whether there has been a breach of the Code

5.27 The Sub-Committee will then retire with the Legal Advisor. If the hearing has been in public the Committee will need to pass a resolution under Section 100A of the Local Government Act 1972 to exclude the public from the meeting. The Sub-Committee must take into account the views of the Independent Person before reaching a decision. Decisions will be determined by a simple majority of those Members present and voting; the Independent Person does not have a vote. Where there are equal numbers of votes for and against the Chair will have a second casting vote and there is no restriction on how the Chair chooses to exercise a casting vote.

5.28 The Sub-Committee will announce their decision as to whether there has been a breach of the Code in the presence of all parties, and, if the press and public was excluded earlier in the meeting, this will normally be after passing a resolution that they should no longer be excluded from the meeting. The Sub-Committee will provide summary reasons for the decision and will explain any reasons why any advice from the Independent Person has or has not been followed in giving its decision.

5.29 If the Sub-Committee decide that the Subject Member has not breached the Code, they shall dismiss the complaint and take no further action. However, they may still make general recommendations to the Council, its Audit and Governance Committee, the Monitoring Officer, or the Town or Parish Council, on any remedial actions, if it is considered necessary to address the issues raised.

5.30 If the Sub-Committee decide that the Subject Member has breached the Code, then the following sub-section on sanctions will apply.

Determination as to any sanctions to be applied (if applicable)

5.31 If the Complainant is present at the meeting, the Standards Sub-Committee will invite them to give a statement as to the effect on them of the Subject Member's conduct which has been found to have breached the Code. The Complainant is not obliged to give such a statement. If the Complainant does make a statement, they may only be questioned by the Standards Sub-Committee. Alternatively, the Complainant may provide a written statement to the Monitoring Officer in advance of the meeting which the Legal Adviser will read out at this stage of the meeting.

5.32 The Investigating Officer may make representations as to whether the Sub-Committee should impose a sanction and what form any sanction should take.

5.33 The Sub-Committee may question the Investigating Officer in relation to any such representations.

5.34 The Subject Member (or their appointed representative) may make representations as to whether the Sub-Committee should impose a sanction

and what form any sanction should take and may make representations as to mitigation.

5.35 The Sub-Committee may question the Subject Member in relation to any such representations.

5.36 The Legal Advisor will then raise any points that need to be addressed before the matter is determined.

5.37 The Independent Person will then give their views on the appropriate sanction, if any, to be imposed and their views will be recorded in the Minutes of the meeting.

5.38 The Sub-Committee will then retire with the Legal Advisor. If the hearing has been in public the Sub-Committee will need to pass a resolution under Section 100A of the Local Government Act 1972 to exclude the public from the meeting.

5.39 The Sub-Committee will come to a decision as to sanctions. Any sanction imposed must be reasonable and proportionate to the breach found and the Legal Advisor may advise the Sub-Committee in this regard. The Sub-Committee has no power to suspend or disqualify the member or to withdraw or suspend allowances. The Sub-Committee may:

- Censure or reprimand the Subject Member;
- Recommend to the Subject Member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- Recommend to the Leader of the Council that the Subject Member be removed from the Executive or removed from particular Executive Portfolio responsibilities;
- Recommend to Council that the Subject Member be replaced as Executive Leader of the Council;
- Instruct the Monitoring Officer to, or recommend that a Town or Parish Council, arrange training for the Subject Member;
- Publish its findings in respect of the Subject Member's conduct;
- Report its findings to Council, or to a Town or Parish Council, for information.

5.40 The Sub-Committee will announce its decision in the presence of all parties, and this will normally be after passing a resolution that the public should no longer be excluded from the meeting. The Sub-Committee will give reasons for its decision and will explain the reasons why any advice from the Independent Person has or has not been followed in giving its decision.

Decision notice

5.41 The Monitoring Officer will, within 10 working days of the Sub-Committee meeting prepare a formal Decision Notice, and send a copy to the Complainant, to the Investigating Officer and to the Subject Member (and to the Town or Parish Council if appropriate). The Decision Notice will be published as part of the Minutes of the Sub-Committee meeting and will be placed on the Council's website, regardless of whether the Sub-Committee excluded the press and public for the meeting or not, unless the Monitoring Officer determines that it should remain confidential.

5.42 The findings and recommendations of the Sub-Committee are final and there is no right of appeal against the decision of the Standards Hearings Sub-Committee.

Departing from this procedure

5.43 The Chair of the Sub-Committee has the right to depart from this procedure, having taken advice from the Legal Advisor where it is considered it is sensible to do so, to deal with the case effectively and in the public interest, provided that the principles of fairness are upheld.

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