

London Borough of Enfield

Procedure for Hearing Complaints against Councillors and Co-opted Members and for Appeals against Monitoring Officer Decisions on Complaints

1. General Principles

- 1.1 The Councillor Conduct Committee will decide, on a balance of probabilities, whether the allegation(s) is or are upheld. They will be able to call on the advice of relevant council officers and the Independent Person, who had not previously been consulted on the complaint. (where we have two independent persons)
- 1.2 Papers will be sent out in advance of the hearing, including the Monitoring Officer/Investigating Officer report with all the evidence gathered, and representations from both the complainant and the member complained against. They will both have the opportunity to comment, in advance, on the report and evidence put forward. Any comments will be included with the papers.
- 1.3 The Committee will make a decision by considering the Monitoring Officer/Investigating officer's report and any representations by the Monitoring/Investigating officer or their representative and the written or oral representations made by the complainant or member complained against, any information provided at a hearing. Both parties will have the opportunity to make representations, irrespective of whether they are invited to attend the hearing.
- 1.4 Both the complainant and the member(s) complained against will be invited to attend investigation hearings. Unless the committee decides otherwise, they will not be able to attend appeal hearings. All parties will be advised of this beforehand.
- 1.5 The complainant and the member complained against may be represented or accompanied during the investigation hearing.
- 1.6 If the member complained against or the complainant is not present at the start of the investigation hearing the Chair shall ask the Monitoring Officer whether the member or complainant has indicated his/her intention not to attend the hearing. If they have advised that they will not be attending the hearing, the committee can proceed in their absence. If no response has been received from either party then the committee shall decide whether to continue the hearing in their absence.
- 1.7 The public and press will be excluded for those parts of the hearing where confidential or exempt information under Schedule 12A of the Local

Government Act 1972, as amended, is disclosed. At the start of the hearing, the Committee will make a decision as to whether or not all or part of the hearing should be held in public.

2. Procedure at Investigation Hearings

The Legal Representative will be the advisor to the Committee and may seek further information or ask questions at any point in these proceedings. During the hearing all questions and other proceedings shall be addressed through the chair.

2.1 Presentation of the Monitoring Officer Report

- a. The Monitoring/Investigating Officer will present his/her report and any relevant information to the committee members.
- b. The Independent Person, who has been consulted on the Monitoring Officer decision, may include their comments.
- c. The committee members will have an opportunity to ask questions of the Monitoring Officer, the Independent Person.
- d. The complainant will have an opportunity to ask questions of the Monitoring Officer, the Independent Person.
- e. The member complained against will have the opportunity to ask questions of the Monitoring Officer/Investigating Officer and the Independent Person.

2.2 Complainant Presents to the Committee

- a. The complainant has the opportunity to address the committee and present their case.
- b. The committee members will have an opportunity to ask questions of the complainant.
- c. The complainant has an opportunity to respond.
- d. The member complained against has an opportunity to ask questions of the complainant.
- e. The complainant has an opportunity to respond.
- f. The Monitoring Officer has an opportunity to ask questions of the complainant.
- g. The complainant has an opportunity to respond.
- h. The committee members have a further opportunity to ask questions.

2.3 The Member Complained Against

- a. The member complained against has the opportunity to address the committee and respond to the complainant's case.
- b. The committee members will have an opportunity to ask questions of the member.
- c. The member complained against has an opportunity to respond.
- d. The complainant has an opportunity to ask questions.
- e. The member complained against has an opportunity to respond.
- f. The Monitoring Officer/Investigating Officer has an opportunity to ask questions of the member.
- g. The member complained against has an opportunity to respond
- h. The committee members have a further opportunity to ask questions.

2.4 Consideration by the Committee

- a. The Monitoring/Investigating Officer, Independent Person, complainant member and any other relevant parties will all withdraw. The Legal Representative and Committee Administrator will remain.
- b. The Committee will consider all the information and make a decision as to whether or not there has been a breach of the code of conduct.

2.5 Agree Outcome

The Committee have the option of agreeing that there has or has not been a breach of the code.

If it is decided that there had been a breach of the code, the Committee will then consider and agree what sanctions should be imposed. A list of possible sanctions is set out in Appendix A.

2.6 Outcome of Hearing

A formal written notice of the decision will be communicated to all parties including the member complained against, the Monitoring Officer/Investigating Officer, the members of the committee and the complainant with reasons. This must be within five working days of the conclusion of the hearing.

2.7 General Recommendations from the Hearing

After the hearing the Committee may consider whether there are any general recommendations in relation to ethical governance matters which they may wish to make arising from consideration of the allegation.

3. Procedure at an Appeal Hearing Against a Decision by the Monitoring Officer

The attendance of the complainant and member complained against will not be required unless the Committee decides otherwise.

3.1 Presentation of the Monitoring Officer Report

- a. The Monitoring/Investigating Officer will present his report and any other information to the committee members along with any comments submitted in writing by the complainant or member(s) complained against.
- b. The Independent Person, who had been consulted on the Monitoring Officer decision, may include their comments.
- c. The committee members will have an opportunity to ask questions of both the Monitoring Officer and the Independent Person.

3.2 Consideration of the Evidence

- a. The Monitoring/Investigating Officer and Independent Person will then withdraw. The Legal Representative and Committee Administrator will remain in the appeal hearing.
- b. The Committee will consider all the information and make a decision as to whether or not to uphold the Monitoring/Investigating Officer decision.

3.3 Agree Outcome

If the outcome of the appeal results in Committee confirming that a breach of the code has occurred then it will need to consider what sanctions it wishes to impose as a result. A list of sanctions is attached as Appendix A.

3.4 Outcome of Hearing

A formal written notice of the decision will be communicated to all parties including the member complained against, the Monitoring Officer/Investigating Officer, the members of the committee and the complainant with reasons. This must be within five working days of the conclusion of the appeal hearing.

3.5 General Recommendations from the Hearing

After the appeal hearing the Committee may consider whether there are any general recommendations in relation to ethical governance matters which they may wish to make arising from consideration of the allegation.

Appendix A

In the event of a finding of a breach of the Code, the Committee will have the option of recommending a sanction against the member concerned. This can include:

- Reporting the findings to full Council.
- Recommending to the relevant Group Leader that the councillor be removed from relevant meetings of the Authority of which they are a member.
- Recommending to the Leader of the Council that the member be removed from the Cabinet or from particular portfolio responsibilities.
- Withdrawing facilities provided to the member by the Council – such as computer access and/or e mail or internet access.
- Excluding the member from the Council's offices or other premises for a defined period of time – with the exception of meeting rooms as necessary for the purpose of attending meetings of the Authority of which they are a member.
- Publishing the findings in the local media.