



Milton Keynes City Council Standards Committee Hearing Procedure

Revisions adopted by the Standards Committee
28 January 2025

Introduction to Standards Committee Hearings

This Hearing Procedure sets out how the Council deals with Standards Sub- Committee hearings. It has been updated to include changes brought about by the Localism Act 2011, for example, in relation to sanctions.

There is specific terminology used in relation to this Council function and therefore **Appendix 1** gives definitions of the main terminology used in the procedure.

Both the Councillor who is the subject of a complaint, and the person making the complaint will have been informed if it has been decided that the complaint should be investigated.

Once the Investigating Officer has carried out their investigation, the subject of the complaint and the complainant will receive a copy of the draft report and will have the opportunity to make comments. The Investigating Officer will update their report accordingly and issue the final report. The Investigator's Report may find that:

- There has been a breach of the Code of Conduct.
- There has been no breach of the Code of Conduct.

Monitoring Officer to consider the Investigation Report in Consultation with the Standards Committee Chair and Vice-Chairs

The Monitoring Officer will receive the Investigating Officer's report and make a decision as to whether to accept its findings in consultation with the Chair and Vice- Chairs of the Standards Committee. The Monitoring Officer can decide to:

- Accept a finding of no breach of the Code.
- Find that the matter should be considered at a hearing of a Standards Sub-Committee.

The Monitoring Officer will also seek the view of the Independent Persona before making a decision.

If the Monitoring Officer decides that the matter should go to a hearing then the pre-hearing process is started.

The role of the Monitoring Officer

It is important that the Sub-Committee receives high quality, independent advice, the Monitoring Officer will be the main adviser to the Standards Committee, unless there is an interest in that matter that would prevent them from performing this role independently.

The Monitoring Officer's role in advising the Sub-Committee is to:

- Make sure that members of the Standards Committee understand their powers and procedures
- Make sure that the procedure is fair and will allow the complaint to be dealt with as efficiently and effectively as possible
- Make sure that the Subject Member understand the procedure the Sub-Committee will follow
- Provide advice to the Sub-Committee during the hearing and their deliberations
- Help the Sub-Committee procedure a written decision and a summary of that decision

Pre-Hearing Process

This process is designed to ensure that matters at the hearing are dealt with fairly and efficiently. A letter will be sent to the Subject Member, proposing an initial date for the hearing. This hearing will be arranged as promptly as is practicable, but unless there are exceptional circumstances, such as the ill health of the subject member or complainant, within two months of the Monitoring Officer having received the Investigation Report).

The Subject Member is asked to indicate any needs they may have on the day of the hearing, whether they would wish to have the matter heard in private and how many witnesses they would like to call. The pre-hearing process is also used to identify disagreements in the evidence presented in the Investigating Officers report, any other evidence the Subject Member wishes the Standards Sub-Committee to take into account. The Subject Member will, if the Investigator's conclusion is that they have breached the code, be asked what they believe should be taken into account as mitigation. In doing so, the Subject Member is not considered to have accepted that they have breached the code.

A meeting may then be convened with the Chair of the Sub-Committee. At this stage, information from both the Subject Member and the Investigating Officer are considered. The Chair in consultation with the Monitoring Officer and Vice Chairs (if required) will make a decision as to the witnesses to be called, the administrative arrangements to be made and the date of the final hearing. In taking any decision about witnesses, the Chair shall:

- Identify any witnesses they think the sub-committee would want to hear from.
- Decide if witnesses which the subject member or investigator propose to call are relevant bearing in mind the nature of the issue and the need for proportionality. For example, if an incident has occurred at full council there would be no need to call every Councillor present as a witness but equally the Chair may feel that the panel needs to hear from one or two witnesses representing different sides. Similarly, if the subject member decides to call a number of character witnesses the Chair should take a view as to how relevant that is and how many would suffice.

All of the information submitted during this process assists the formulation of the agenda for the hearing. This agenda and the covering letter are then sent to the Subject Member, the complainant and the witnesses.

At this stage the hearing agenda is confidential. The Sub-Committee will then make a decision on the day of the hearing as to whether the hearing should be carried out in public or in private. If the hearing is carried out in public, the papers will be made openly available at this stage.

Standards Committee Hearings

The purpose of the Standards Sub-Committee is to allow the Sub-Committee to consider the evidence supplied by both the Subject Member and the Investigating Officer and make a decision as to:

- The findings of fact.
- Whether the Subject Member has breached the Code of Conduct; and
- Any sanction if it is found that the Subject Member has breached the Code of Conduct.

In order to hear the matter, a Sub-Committee is formed. This Sub-Committee will comprise of 3 members of the Milton Keynes Council Standards Committee and, if the matter is concerned with a Parish Council, one additional Parish member will be invited to sit on the Sub-Committee. An Independent Person will also attend to give their view on the matter before the Sub-Committee make their final decision and upon any sanctions, as appropriate.

If the Sub-Committee includes independent representations or parish representations, they do not have voting rights by law.

All Sub-Committee members will have undergone suitable training.

Except in the most complicated cases, the Sub-Committee will aim to complete a hearing in one setting or in consecutive sittings of no more than one working day in total.

1. Preliminary Items - Opening the Meeting of the Sub-Committee

There are a number of preliminary items which will be considered when the meeting is opened. Some of these items are standard items which are found on Sub-Committee agendas and some are unique to the hearing process.

1a. Apologies and Disclosures of Interest

At the beginning of the meeting the Chair of the Sub-Committee will ask for any apologies and will ask members of the Sub-Committee to disclose the existence and nature of any non-registerable, or other registerable interests which they have in the case, and to withdraw from consideration of the case if so required. A committee member will not be considered to have a non-registerable interest (by way of a close association with the Subject Member), simply because they belong to the same political group as the Subject Member.

1b. Quorum

The Chair will then check that the meeting is quorate to ensure that the correct members are sitting on the Sub-Committee before the hearing is commenced.

1c. Introductions

1(c(i)) At the start of the hearing, the Chair will introduce each of the members of the Sub-Committee, the Subject Member, the Independent Person, the Investigator, the Legal Advisor, the Committee Support Officer and any other officers present.

1(c(ii)) The Investigating Officer or the Subject Member may choose to be represented by a solicitor or barrister during the hearing, or with the permission of the Sub-Committee, another person. It must be noted that the Subject Member must bear the cost of such representation.

1d. The Role of the Legal Advisor

The Chair will then explain the role of the Legal Advisor. The Sub-Committee may take legal advice from its Legal Advisor at any time during the hearing or while they are considering the matters put before them in private. The substance of any legal advice given to the Sub-Committee at any stage in the proceedings will be shared with the parties present.

1e. Outline of the Hearing Procedure

1(e(i)) The Chair will confirm that all present know the procedure which the Sub-Committee will follow in determining the case. The Chair will remind the Sub-Committee that although it is a formal meeting, it is not judicial and evidence is not given under oath. The standard of proof to be met is on the 'balance of probabilities', as in civil proceedings and not 'beyond all reasonable doubt', as in criminal proceedings. The Chair will then ask the hearing if there are any questions, before continuing.

1(e(ii)) At this stage the Sub-Committee will resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

- 1(e)(iii) The Chair will consider whether or not there are opportunities for conciliation that would be beneficial to the process. 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.
- 1(e)(iv) If the Subject Member is not present at the start of the hearing and has not indicated his/her wish to proceed regardless:
- a) The Chair will ask the Legal advisor whether the Subject Member has indicated his/her intention not to attend the hearing.
 - b) The Sub-Committee will then consider any reasons which the Subject Member has provided for not attending the hearing and will decide whether it is satisfied that there is sufficient reason for a failure to attend.
 - c) If the Sub-Committee is satisfied with the reasons it will adjourn the hearing to another date.
 - d) If the Sub-Committee is not satisfied with the reasons, or if the Subject Member has not given any reasons, the Sub-Committee will decide whether to consider the case and make a determination in the absence of the Subject Member or adjourn the hearing to another date.

1f. Exclusion of the Press and Public

The Chair will ask the Subject Member, the Investigator and the Legal advisor to the Sub-Committee whether they wish to ask the Sub-Committee to exclude the press or public from all or any part of the hearing. If any of them do so request, the Chair will ask them to put forward reasons for so doing and ask for responses from the others and the Sub-Committee will then determine whether to exclude the press and public from all or any part of the hearing. Further details are set out at **Appendix 2**.

1g. Presentation of the Monitoring Officer's Report

At the end of the preliminary matters, the Monitoring Officer (usually also acting as the Legal Advisor to the hearing) will present their report. This report will summarise the pre-hearing process which has taken place, and outline whether or not the Subject Member has disagreed with any of the findings of fact in the Investigating Officer's report.

- a) If the Subject Member admits that he/she has failed to comply with the Code of Conduct in the manner described in the Investigator's report, the Sub-Committee may then make a determination that the Subject Member has failed to comply with the Code of Conduct in the manner described in the Investigator's report and proceed directly to consider whether any action should be taken.

- b) If the Subject Member identifies additional points of difference, the Chair will ask the Subject Member to explain why he/she did not identify these points as part of the pre-hearing process. He/she will then ask the Investigator (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 Sub-Committee is not satisfied with the Subject 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 Subject Member to challenge the veracity of those findings of fact which are set out in the Investigator's report but which the Subject Member did not identify as a point of difference as part of the pre-hearing process, or it may decide to adjourn the hearing to allow the Investigator and/or any additional witnesses to attend the hearing.

The Monitoring Officer will then ask the Sub-Committee to endorse the pre-hearing directions.

CONDUCTING THE HEARING

2. Findings of Fact - Are there Disputes?

Introduction

This section is concerned with agreeing the findings of fact. Any facts which are disputed by the Subject Member must normally have been stated during the pre-hearing process.

If the Subject Member disagrees with any relevant fact in the Investigator's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. If the investigator is not present, the Sub-Committee will consider whether it would be in the public interest to continue in their absence. After considering the Subject Member's explanation for not raising the issue at an earlier stage, the Sub-Committee may then:

- **Disagree with the Subject Member's explanation, accept the facts as they are presented in the Investigating Officer's report and continue with step three of the hearing.**
- **allow the Subject Member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary.**
- **postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigator to be present if they are not already.**

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

2a Investigator's Representations (and witnesses, if appropriate)

If there is a disagreement on the findings of fact, the Investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the Sub-Committee's permission, the Investigator may call any necessary supporting witnesses to give evidence. The Sub-Committee may give the Subject Member an opportunity to challenge any evidence put forward by any witness called by the Investigator.

If the Subject Member disagrees with more than one of the facts, it may make sense for the Investigator to start by making representations on all the relevant facts, instead of discussing each fact individually. The Committee may however, require that evidence on findings of fact are presented individually.

2b. Subject Member's Representations (and witnesses if appropriate)

The Subject Member should then have the opportunity to make representations to support their version of the facts and, with the Sub-Committee's permission, to call any necessary witnesses to give evidence.

Both the Subject Member and Investigating Officer will then have an opportunity to 'sum-up' the main points of the argument.

At any time, the Sub-Committee may question any of the people involved or any witnesses. The Investigator may be given an opportunity to challenge any evidence put forward by witnesses called by the Subject Member.

2c. Sub-Committee's Decision

The Sub-Committee will usually move to another room to consider the representations and evidence in private. On their return, the Chair will announce the Hearing Sub-Committee's findings of fact.

The Sub-Committee will take its decision on the balance of probability based on the evidence which it has received at the hearing.

The Sub-Committee's function is to make a determination on the findings of fact. It will do this by way of majority voting. It may, at any time, return to the main hearing room in order to seek additional evidence from the Investigator, the Subject Member or a witness, or to seek the legal advice from or on behalf of the Legal Advisor. If it requires any further information, it may adjourn and instruct an officer or request the Subject Member to produce such further evidence to the Sub-Committee.

3. On the Facts, has the Code been Breached?

Introduction

The Sub-Committee then needs to consider whether, based on the facts it has found, the Subject Member has failed to follow the Code. The Sub-Committee may, at any time, question anyone involved on any point they raise in their representations.

3a. Investigator's Representations (and witnesses, if appropriate)

The Sub-Committee should then consider any representations on whether the Code has been breached from the Investigator.

The Investigating Officer may also, at this point, call witnesses if permission is granted by the Sub-Committee.

The Subject Member may be given an opportunity to challenge any evidence put forward by any witness called by the Investigator.

3b. Subject Member's Representations (and witnesses, if appropriate)

The Subject Member will be invited by the Chair to give relevant reasons why the Sub-Committee should decide that they have not failed to follow the Code.

The Subject Member may, at this point also call witnesses if permission is granted by the Sub-Committee. The Investigator may be given an opportunity to challenge any evidence put forward by witnesses called by the Subject Member

Both the Subject Member and the Investigating Officer will then have an opportunity to 'sum up' the main points of the argument.

3c. Sub-Committee's Decision

At the conclusion of the Subject Member's response, the Chair will ensure that each member of the Sub-Committee 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 Investigator's report.

Before retiring, the Chair will invite the Independent Person to give their views to the Sub-Committee which the local authority must have regard to. These views will be given in the open session, to allow both the Subject Member and Complainant an opportunity to challenge them as necessary.

The Sub-Committee will then move to another room to consider the representations. On their return, the Chair will announce the Sub-Committee's decision as to whether the Subject Member has failed to follow the Code.

The Sub-Committee will take its decision on the balance of probability based on the evidence which it has received at the hearing.

The Sub-Committee's function is to make a determination on whether the Subject Member has breached the Code of Conduct. It will do this by way of majority voting. It may, at any time, return to the main hearing room in order to seek additional evidence from the Investigator, the Subject Member or a witness, or to seek the legal advice from or on behalf of the Legal Advisor. If it requires any further information, it may adjourn and instruct an officer or request the Subject Member to produce such further evidence to the Sub-Committee.

If the Sub-Committee decides that the Code has not been breached, it will inform the Subject Member and the Sub-Committee will then consider recommendations to the Council (section 5).

4. Sanctions

4a. Introduction

If the Sub-Committee decide that there has been a breach of the Code of Conduct by the Subject Member concerned, they will then go on to consider sanctions.

The sanctions available to the Sub-Committee can be found at **Appendix 3**. Factors to be taken into account when considering what sanction may be applicable are set out at **Appendix 4**. Mitigating factors are set out at **Appendix 5**.

4b. Subject Member's Representations (and character witnesses, if appropriate)

The Subject Member may introduce agreed character witnesses to make a statement in support of the Subject Member.

The Sub-Committee will consider any verbal or written representations from the Subject Member as to:

- whether the Sub-Committee should apply a sanction; or
- what form any sanction should take

The Subject Member will then have an opportunity to 'sum up' the main points of their argument.

4c. Sub-Committee's Decision

The Sub-Committee may question the Investigator and Subject Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.

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

On their return, the chair will announce the Sub-Committee's decision as to the sanction that the Sub-Committee will recommend.

5. Recommendations to the Authority

Regardless of whether or not the Sub-Committee find that Subject Member has breached the Code of Conduct, the Sub-Committee may make recommendations to the authority, with a view to promoting high standards of conduct among Councillors.

6. Close of the Meeting

The Chair will thank all those present who have contributed to the conduct of the hearing and formally close the hearing.

A short, written decision will be agreed by the Sub-Committee and made available on the day of the Sub-Committee.

Within two weeks of the hearing, the Sub-Committee Support officer will agree a formal written notice of the Sub-Committee's determination and the Monitoring Officer will arrange for its publication.

If the Sub-Committee finds that the Subject Member did not fail to follow the authority's Code of Conduct, the public summary will say this and give reasons for this finding.

If the Sub-Committee finds that the Subject Member failed to follow the Code but no action is needed, the public summary will:

- Say that the Councillor failed to follow the Code, but that no action needs to be taken;
- Outline what happened;
- Give reasons for the Sub-Committee's decision not to take any action

If the Sub-Committee finds that a Councillor failed to follow the Code and it imposed a sanction, the public summary should:

- Say that the Councillor failed to follow the Code;
- Outline what happened;
- Explain what sanction has been imposed
- Give reasons for the decision made by the Sub-Committee.

A flowchart of the full hearings process is set out at **Appendix 6**.

Terminology

- (a) 'Subject Member' means the member of the authority who is the subject of the allegation being considered by the Sub-Committee, unless stated otherwise. It also includes the Member's nominated representative.
- (b) 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake that investigation (which may include the Monitoring Officer and his or her nominated representative).
- (c) 'The Case' is the subject case of the Investigator's report.
- (d) 'The Sub-Committee Support Officer' means an officer of the authority responsible for supporting the Sub-Committee's discharge of its functions and recording the decisions of the Sub-Committee.
- (e) 'The Chair' refers to the person presiding at the hearing. Where the Standards Committee Chair is part of the Sub-Committee, they will chair the meeting. Where this is not the case, if either of the Vice Chairs of the Standards Committee are part of the Sub-Committee, they shall chair the meeting (where both are present, Vice Chairs will either agree themselves, who will chair, or the Sub-Committee will vote). If neither the Chair or Vice Chairs are part of the Sub-Committee, the members shall elect a chair, as the first item of business.
- (f) 'The Sub-Committee' means a Sub-Committee of the Milton Keynes Council Standards Committee appointed to hear the matter.
- (g) 'Legal Advisor' means the officer responsible for providing legal advice to the Sub-Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

Access to Standards Committee Hearings and Exempt Information

1. At the hearing, the Sub-Committee will consider whether or not the public should be excluded from any part of the hearing.
2. The Sub-Committee has the discretion to exclude the public if it considers that 'exempt information' is likely to be revealed during the hearing. The committee should take into account Article 6 of the *European Convention on Human Rights*. The Sub-Committee also has a duty to act fairly and within the rules of natural justice.

There is a clear public interest in promoting public confidence in the integrity and honesty of public authorities. Therefore the hearing should be held in public unless the Sub-Committee decides that protecting the privacy of anyone involved is more important than the need for a public hearing.

Sanctions Available to the Sub-Committee

The Sub-Committee, has no legal power to suspend, or disqualify Subject Members.

The sanctions which are available to be recommended by the Sub-Committee to the Council, relevant Parish or Town Council, or Political Group are any, or any combination, of the following:

- (a) Recommendation to censure the Subject Member.
- (b) Recommendation that the Subject Member be removed from a particular Committee, or in the case of an Executive Member, or the Cabinet.
- (c) Recommendation that the Subject Member be removed from other positions of responsibility, which attract a Special Responsibility Allowance.
- (d) Recommendation that the Subject Member be removed from all outside appointments, champion (or similar) roles to which they have been appointed or nominated by their authority
- (e) Recommendation that facilities provided to the Subject Member by their authority for a specified period, such as IT, administrative support or similar, be withdrawn.
- (f) Recommendation that the Subject Member be excluded from their authority's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending council, committee and sub-committee meetings and/or restricts contact with officers to named officers only.
- (g) Recommendation that the Subject Member submits a written apology.
- (h) Recommendation that the Subject Member undertakes such training as the Sub-Committee suggests.
- (i) Recommendation that the Subject Member participate in such conciliation as the Sub-Committee suggests;

The Sub-Committee may also make the decision not to impose a sanction on the Subject Member.

Factors to be taken into Account

In considering the sanction the Sub-Committee may take into account the following factors, along with any relevant circumstances:

- (a) What was the Subject Member's intention?
- (b) Did the Subject Member know that they were failing to follow the Code of Conduct?
- (c) Did the Subject Member get advice from officers before the incident? Was that advice acted on or ignored in good faith?
- (d) Has there been a breach of trust?
- (e) Has there been financial impropriety, for example improper expense claims or procedural irregularities?
- (f) What was the result of failing to follow the Code of Conduct?
- (g) What were the potential results of the failure to follow the Code of Conduct?
- (h) How serious was the incident?
- (i) Does the Subject Member accept they were at fault?
- (j) Did the Subject Member apologise to the relevant people?
- (k) Has the Subject Member previously been warned or reprimanded for similar misconduct?
- (l) Has the Subject Member failed to follow the Code of Conduct before?
- (m) How will the sanction be carried out? For example, who will provide the training or mediation?
- (n) Are there any resources or funding implications?

Mitigating and Aggravating Factors

Aggravating Factors

- (a) Dishonesty.
- (b) Continuing to deny the facts despite clear contrary evidence.
- (c) Seeking unfairly to blame other people.
- (d) Failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code.
- (e) Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.

Mitigating Factors

- (a) An honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice.
- (b) A Subject Member's previous record of good service.
- (c) Substantiated evidence that the Subject Member's actions have been affected by ill-health.
- (d) Recognition that there has been a failure to follow the Code; co-operation in rectifying the effects of that failure; an apology to affected persons where that is appropriate, self-reporting of the breach by the Subject Member.
- (e) Compliance with the Code since the events giving rise to the determination.
- (f) Some actions, which may have involved a breach of the Code, may nevertheless have had some beneficial effect for the public.

Flow Chart of the Sub-Committee Process

