



Public Document Pack STROUD DISTRICT COUNCIL

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23 May 2022

STANDARDS SUB-COMMITTEE

A meeting of the Standards Sub-Committee will be held on **TUESDAY, 31 MAY 2022** in the Council Chamber, Ebley Mill, Ebley Wharf, Stroud at **3.00 pm**

Kathy O'Leary
Chief Executive

Please Note: The meeting is being held in the Council Chamber at Stroud District Council and will be streamed live on the Council's [YouTube Channel](#). A recording of the meeting will be published onto the [Council's website](#). The whole of the meeting will be recorded except where there are confidential or exempt items, which may need to be considered in the absence of press and public.

If you wish to attend this meeting, please contact democratic.services@stroud.gov.uk.
This is to ensure adequate seating is available in the Council Chamber.

AGENDA

1. **CHAIR OF STANDARDS SUB-COMMITTEE**
To elect a Chair of the Standards Sub-Committee for the Civic Year 2022/23.
2. **VICE CHAIR OF STANDARDS SUB-COMMITTEE**
To elect a Vice-Chair of the Standards Sub-Committee for the Civic Year 2022/23.
3. **APOLOGIES**
To receive apologies of absence.
4. **DECLARATIONS OF INTEREST**
To receive declarations of interest.
5. **HEARINGS PROCEDURE (Pages 3 - 8)**
The Sub-Committee is asked to adopt the Hearings Procedures set out in Appendix A.

Members of Standards Sub-Committee

Councillor Martin Percy
Councillor Keith Pearson
Councillor Nigel Studdert-Kennedy

Councillor Muriel Bullock (Parish Council
Representative)
Phyllida Pyper (Independent Person)

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STROUD DISTRICT COUNCIL
STANDARDS SUB-COMMITTEE
31 MAY 2022

Report Title	HEARINGS PROCEDURE			
Purpose of Report	The Sub-Committee is asked to adopt the Hearings Procedures set out in Appendix A.			
Decision(s)	<p>The Sub-Committee RESOLVES to:</p> <p>a. Adopt the Hearings Procedures set out in Appendix A; and</p> <p>b. Authorise the Monitoring Officer, in consultation with the Chair of the Standards Sub-Committee, to make such amendments to the Hearings Procedures as may be necessary to deal with any particular circumstances arising.</p>			
Consultation and Feedback	The Chair of Audit and Standards Committee, together with the subject member of the current complaint due to be heard by the Sub-Committee, and the member's legal representative, have been consulted.			
Report Author	Stephen P Taylor, Interim Monitoring Officer Tel: 07866 142209 Email: Stephen.Taylor@stroud.gov.uk			
Options	Members can choose not to have an approved Hearings Procedure in place but that is not recommended as that would not facilitate the smooth running of the hearing process. Members can approve or amend the proposed Procedures as they think fit.			
Background Papers	There are none			
Appendices	Appendix A – Outline Procedure for Hearings			
Implications (further details at the end of the report)	Financial	Legal	Equality	Environmental
	No	Yes	Yes	No

1. INTRODUCTION

- 1.1 One of the functions of the Standards Sub-Committee is to conduct Standards Hearings. There is no statutory procedure setting out how such a hearing may be conducted. Any procedure which is adopted by the Council for the conduct of hearings must follow the rules of natural justice and comply with the obligation to ensure a fair hearing under Article 6 of the Human Rights Act 1998.

2. HEARINGS PROCEDURE

- 2.1 Before a Standards Hearing can be held, a substantial amount of preliminary work needs to be done to ensure all necessary arrangements are in place in advance of the Hearing.

Agenda Item 5.

This “pre-hearing process” is intended to clarify such matters as whether any of the findings of fact in the Investigator’s report are disputed; the number of witnesses to be called and by whom; and whether the subject member is intending to be legally represented.

- 2.2 The Hearing itself is a meeting of the Sub-Committee and the usual rules apply as to convening the meeting and holding it in public unless there are lawful reasons for all or part of it to be heard as exempt or confidential matters.
- 2.3 An agreed Hearings Procedure would ensure that those taking part are fully aware of the process to be followed at the moment and that it satisfies the requirements of Article 6 that the Subject Member has a fair hearing.
- 2.4 In formulating the Hearings Procedure, regard has been had to the Local Government Association’s ‘Guidance on Member Model Code of Conduct Complaints Handling’. The Chair of Audit and Standards has been consulted on the draft Procedure, as has the Subject Member of a current complaint due to be considered by the Sub-Committee and their legal representative. The draft Procedure has subsequently been revised to include more detail so as to be of more assistance to the parties and the members of the Sub-Committee.
- 2.5 The proposed Procedure which covers the “pre-hearing process” and the Hearing itself is attached at Appendix A. Members comments are welcome, subject to which it is recommended that the Procedure be adopted for use at future Hearings, subject to any amendments that may be agreed. It is suggested that training on the Procedure take place following the meeting of the Sub-Committee.

3. CONCLUSION

- 3.1 Members are recommended to adopt the attached Hearings Procedure.

4. IMPLICATIONS

4.1 Financial Implications

There are no significant implications within this category

Andrew Cummings, Strategic Director of Resources
Email: Andrew.Cummings@stroud.gov.uk

4.2 Legal Implications

Any Hearings Procedure must follow the rules of natural justice and comply with the obligations to ensure a fair hearing under Article 6 of the Human Rights Act 1998.

One Legal
Tel: 01684 272691 Email: legal.services@onelegal.org.uk

4.3 Equality Implications

The proposed Procedure makes clear that equality implications will be taken into account as part of the “pre-hearing process”.

4.4 Environmental Implications

There are no significant implications within this category.

OUTLINE PROCEDURE FOR HEARING

1. Prior to the Hearing, the Monitoring Officer will undertake a “pre-hearing process” to:
 - identify whether any of the findings of fact in the investigation report are in dispute and, if so, how relevant they are likely to be at the hearing;
 - ask the parties to consider whether any additional evidence is likely to be needed at the hearing and identify any relevant witnesses bearing in mind the nature of the issue and the need for proportionality;
 - ascertain whether there are any particular access, equality, or disability requirements to be taken into account;
 - consider whether there are any parts of the hearing that are likely to be held in private or whether any parts of the investigation report or other documents should be withheld from the public prior to the hearing, on the grounds that they contain ‘exempt’ material; and, if necessary,
 - require the member who is the subject of the investigation (the Subject Member) to respond to the Investigating Officer’s report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and state whether the Subject Member wishes to be represented at the Hearing.
2. The Monitoring Officer may consult with the Chair of the Standards Sub-Committee and/or the Standards Sub-Committee as necessary and may issue directions as to the manner in which the hearing will be conducted. Should the Subject Member refuse or fail to respond to any requirement of the Monitoring Officer, or fail to attend the hearing without reasonable excuse, then the hearing may proceed in the absence of the Subject Member.
3. At the hearing, the Investigating Officer will present the investigator’s report, call such witnesses as are considered necessary and make representations to substantiate the report’s conclusion that the Subject Member has failed to comply with the Code of Conduct.
4. For this purpose, the Investigating Officer may ask the complainant to attend and give evidence to the Standards Sub-Committee.
5. The Subject Member will then have an opportunity to give evidence, to call witnesses and to make representations to the Standards Sub-Committee as to why the Subject Member considers that the Subject Member did not fail to comply with the Code of Conduct.
6. The Standards Sub-Committee, having regard to the views of the Independent Person, may conclude that the Subject Member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Standards Sub-Committee concludes that the Subject Member did fail to comply with the Code of Conduct, the Chair will inform the Subject Member of this finding and the Standards Sub-Committee will then consider what action, if any, it should take as a result of the Subject Member’s failure to comply with the Code of Conduct.
7. In doing this, the Standards Sub-Committee will give the Subject Member an opportunity to make representations to the Sub-Committee. The Sub-Committee will then consult the Independent Person and will then decide what action, if any, to take in respect of the matter.

Agenda Item 5.

Appendix A

DETAILED PROCEDURE FOR CONDUCTING HEARINGS

1. The Chair opens the hearing and:
 - i. Introduces the Members of the Standards Sub-Committee (the Panel) and the other parties present including the Member against whom complaint made, the Investigating Officer and other officers.
 - ii. Explains the procedure as follows: “The Investigating Officer will give a summary of their report and their conclusions. The Member who is the subject of the investigation can then ask questions of the Investigating Officer. The Panel may also wish to ask questions. The Subject Member will then present their case. The Investigating Officer may wish to ask questions of the Subject Member. The Panel may also wish to ask further questions. At the end of this process the Panel will ask the parties to leave whilst they consider their conclusions on the facts and on whether there has been a breach of the code. The parties will then be asked to return and to make representations on what sanctions should be imposed if we decide that there has been a breach”.
2. The Chair asks Members of the Panel if they have any interests to declare.
3. The Chair invites the Investigating Officer to present a summary of their report together with any witnesses.
4. The Chair invites the Subject Member to question the Investigating Officer and then any witnesses when appropriate.
5. The Chair invites Members of the Panel to question the Investigating Officer and any witnesses when appropriate.
6. The Chair invites the Subject Member to present their case, including any witnesses when appropriate.
7. The Chair invites the Investigating Officer to question the Subject Member and any witnesses when appropriate.
8. The Chair invites Members of Panel to question the Subject Member and any witnesses when appropriate.
9. The Chair will invite the views of the Independent Person to which the Panel must have regard. The Chair then asks the parties to leave room so that the Panel can retire in private to:
 - a) Reach its conclusions on the facts;
 - b) Decide if there has been a breach of the code.
10. The parties are invited to come back to the room.
11. The Independent Person states any further views to which the Panel had regard during their deliberations. The Chair then advises the parties of the conclusions reached.
12. The Chair (where appropriate if there is a breach) invites firstly the Investigating Officer, and then the Subject Member, to give their views on what sanction should be imposed. The Chair may seek legal advice. The Chair will invite the views of the Independent Person to which the Panel must have regard.

Agenda Item 5.
Appendix A

13. The Chair asks the parties to leave the room whilst the Panel sits in private to decide on appropriate sanctions.
14. The parties are then invited to return.
15. The Independent Person states any further views to which the Panel had regard during their deliberations. The Chair advises the parties of the Panel's decision, and informs the parties that it will be confirmed in writing as soon as practicable.
16. The Chair closes the hearing and thanks everybody for their attendance.

May 2022

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