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**5E Standards Sub-Committee Procedure Rules**

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These procedure rules apply to meetings of the Standards 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.
Standards Sub-Committee	<p>A Sub-Committee of the Audit and Governance Committee in accordance with the provisions of the <i>Local Government Act 1972</i>.</p> <p>A meeting of the Standards Sub-Committee will consider whether the Subject Member has breached the Code.</p> <p>A Sub-Committee of the Audit and Governance Committee, in accordance with the provisions of the Local Government Act 1972.</p> <p>Comprising 5 members of the Audit and Governance Committee, appointed by the Audit and Governance Committee.</p>
Independent Person	A person appointed by the Council under <i>section 28(7) of the Localism Act 2011</i> . An Independent Person will be invited by the Monitoring Officer to attend the Standards Sub-Committee meeting as a co-opted Member. 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, and as to any action to be taken following a finding of failure to comply with the Code.
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.
Investigation 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 Sub-Committee. This may be the Monitoring Officer, another legally qualified Officer, or an external third party legal advisor appointed for the purpose.
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 <i>section 5 of the Local Government and Housing Act 1989</i> .
Town or Parish Council	Where the Subject Member is alleged to have breached the Code of a Town or Parish Council, the Town or Parish Council of which the Subject Member is a member.
Exempt Information	As defined in <i>Section 100A and Schedule 12A to the Local Government Act 1972</i> .

## 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 Sub-Committee, a Standards Sub-Committee meeting will be convened, to determine whether the Subject Member has failed to comply with the Code. 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 Standards Sub-Committee meeting within 25 working days of receipt of the final Investigator's report or as soon as practicably possible thereafter. The Standards Sub-Committee will comprise 5 members appointed to that 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 Sub-Committee to be quorate and proceed, a minimum of three elected members of the Standards Sub-Committee plus an Independent Person

must be present. Substitute Members are allowed only from the membership of the Audit and Governance Committee. Members will only be able to sit on the Standards Sub-Committee if they have undertaken standards training.

### **3.0 PRE-MEETING PROCESS**

3.1 The Monitoring Officer shall invite the Subject Member to give a response in writing to the Investigation Report. 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.

3.2 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.

### **4.0 DOCUMENTATION**

4.1 Standards 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 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 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 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 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 PROCEDURE**

5.1 The Standards Sub-Committee will follow usual Committee procedures for apologies, and declarations of interests. The meeting shall be chaired by the elected Chair of the Sub-Committee, or the Vice-Chair in their absence (if there is one). In the absence of both the Chair and Vice-Chair, the Standards Sub-Committee will elect a Chair for that particular meeting.

- 5.2 The Standards 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 meeting or while they are deliberating on the outcome. The substance of any legal advice given should be shared with the Subject Member and the Investigating Officer.
- 5.3 The meeting will normally be held in public. However, the Standards Sub-Committee may resolve to exclude the press and public from the meeting on the grounds set out in *Section 100A and Schedule 12A to the Local Government Act 1972*. In deciding whether to exclude the press and public, the Standards Sub-Committee will have regard to any representations made by the Investigating Officer and/or by the Subject Member and advice from the Legal Advisor as to the public interest.
- 5.4 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.
- 5.5 The Standards Sub-Committee meeting is not a court of law. Therefore (save as provided for in paragraph 5.6 below) there will be no oral evidence heard at the meeting. The Standards Sub-Committee may take into account 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.
- 5.6 In determining complaints, the Standards Sub-Committee will generally adopt the following procedure.
  - 5.6.1 The Chair will introduce the Members of the Standards Sub-Committee, the Independent Person, the Legal Advisor, the Investigating Officer, the Subject Member and any other persons present.
  - 5.6.2 The Legal Advisor will give a brief outline of the allegation before the Sub-Committee and outline the procedure to be followed.
  - 5.6.3 The Investigating Officer will present the Investigation Report 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.
  - 5.6.4 The Subject Member may ask questions of the Investigating Officer through the Chair. The Chair will ensure that the questions are necessary and will assist the Sub-Committee in determining the complaint.
  - 5.6.5 The Sub-Committee Members may question the Investigating Officer, followed by the Independent Person.
  - 5.6.6 The Subject Member will address the Sub-Committee. If the Subject Member admits that they have breached the Code the Sub-Committee may move to paragraph 5.6.12 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.

- 5.6.7 The Investigating Officer may ask questions of the Subject Member through the Chair. The Chair will ensure that the questions are necessary and will assist the Sub-Committee in determining the complaint.
- 5.6.8 The Standards Sub-Committee may question the Subject Member, followed by the Independent Person.
- 5.6.9 The Investigating Officer and the Subject Member (in that order) will each briefly sum up their respective cases.
- 5.6.10 The Independent Person will give their views to the Standards Sub-Committee as to whether or not the Code has been breached and these will be recorded in the Minutes of the meeting.
- 5.6.11 The Standards Sub-Committee will then retire with the Legal Advisor to deliberate in private. The Standards Sub-Committee must take into account the views of the Independent Person before reaching a decision as to whether the Code has been breached. 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.
- 5.6.12 The Standards Sub-Committee will announce its decision as to whether there has been a breach of the Code in the presence of all parties and (assuming that it had not earlier resolved to exclude the press and public from the meeting) in public. This shall include summary reasons for the decision.
- 5.6.13 If the Standards Sub-Committee decide that the Subject Member has not breached the Code, it shall dismiss the complaint. However, it may still make general recommendations to the Council, its Audit and Governance Committee, the Monitoring Officer, or (if relevant) the Town or Parish Council in light of the issues raised in the complaint.
- 5.6.14 If the Standards Sub-Committee decide that the Subject Member has breached the Code then it may move to paragraph 5.6.16.
- 5.6.15 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.
- 5.6.16 The Investigating Officer may make representations as to whether the Standards Sub-Committee should impose a sanction and what form any sanction should take.

- 5.6.17 The Subject Member may make representations as to whether the Standards Sub-Committee should impose a sanction and what form any sanction should take. This may include an apology or other form of mitigation.
- 5.6.18 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.
- 5.6.19 The Standards Sub-Committee will deliberate and announce its decision as to sanctions adopting the same procedure as in paragraphs 5.6.12-5.6.13 above.
- 5.6.20 Any sanction imposed must be reasonable and proportionate to the breach found. The Standards Sub-Committee has no power to suspend or disqualify the member or to withdraw or suspend allowances. Subject to those limitations, Standards Sub-Committee may impose any sanction it considers appropriate (including but not limited to):
- Formal censure or reprimand of the Subject Member (or a recommendation to Council or the Town or Parish Council that it issues a formal censure or reprimand);
  - Recommend that the Subject Member apologise;
  - A direction to publicise its decision (e.g. in a press release published on the Council's website);
  - Recommend to the Subject Member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) or to the Town or Parish Council that the Subject Member be removed from any or all Committees or Sub-Committees of the Council/Town or Parish 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 Leader of the Council;
  - Recommend to Council or the Town or Parish Council that the Subject Member be removed from outside appointments to which they have been nominated by the Council/Town or Parish Council;
  - Instruct the Monitoring Officer to arrange, or recommend that the Town or Parish Council arrange, appropriate training for the Subject Member; Recommend to Council, or to the Town or Parish Council, that it withdraws access to Council facilities and resources (provided this does not unreasonably interfere with the Subject Member's ability to perform their role as a councillor). This may include access to premises.
- 5.7 A Town or Parish Council which receives recommendations as to sanctions from the Standards Sub-Committee may only implement the recommended sanctions and has no legal power to impose any other sanctions.
- 5.8 The Monitoring Officer will, within 10 working days of the Standards 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

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Minutes of the Standards Sub-Committee meeting and will be placed on the Council's website. If the press and public were excluded from the meeting, a version of the Decision Notice that does not disclose any exempt information will be published.

- 5.9 The decision of the Standards Sub-Committee is final and there is no right of appeal.
- 5.10 The Chair of the Standards Sub-Committee has the right to depart from this procedure, having taken advice from the Legal Advisor, where it is considered it is appropriate to do so, to deal with the case fairly, effectively and in the public interest, provided that the principles of fairness are upheld.