



**WEST OXON DISTRICT COUNCIL:
AUDIT & GENERAL PURPOSES COMMITTEE**

**STANDARDS SUB COMMITTEE:
LOCAL HEARING PANEL PROCEDURE RULES**

1.0 DEFINITIONS

Complainant(s)	The person/people making the complaint.
Subject Councillor	The Councillor, co-optee, or Town or Parish Councillor against whom an allegation has been made.
Appointed representative	The Subject Councillor may be represented or accompanied during the meeting by a Solicitor, Counsel or, with the permission of the Local Hearing Panel Members, another person.
Standards Sub-Committee	A Sub-Committee of the Audit and General Purposes Committee in accordance with the provisions of the <i>Local Government Act 1972</i> .
Local Hearing Panel	A meeting of a panel of three members of the Standards Sub-Committee at which they consider whether the “Subject Councillor” has breached the Code of Conduct. In itself, a Sub-Committee of the Audit and General Purposes Committee in accordance with the provisions of the <i>Local Government Act 1972</i> .
Independent Person	An Independent Person will be invited by the Monitoring Officer to attend a Local Hearing Panel as a Member of the Sub-Committee. Their views are sought and taken into consideration before the Local Hearing Panel takes any decision on whether the Subject Councillor’s conduct constitutes a failure to comply with the Code of Conduct, in accordance with the provisions of the <i>Localism Act 2011</i> , and as to any action to be taken following a finding of failure to comply with the Code of Conduct
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.
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 Local Hearing Panel. This may be the Monitoring Officer, another legally qualified Officer, or an external third party legal advisor appointed for the purpose.
Chair	The Chairperson of the Local Hearing Panel, elected by the Local Hearing Panel to chair a specific meeting.
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> .
Exempt Information	As defined in <i>Section 100A and Schedule 12A to the Local Government Act 1972</i>

2.0 INTRODUCTION

Where the Monitoring Officer considers that it is in the public interest for a complaint to be considered by the Standards Sub-Committee, a further Sub-Committee will be convened as a Local Hearing Panel, to determine whether the Subject Councillor has failed to comply with the Code of Conduct.

The Monitoring Officer will seek to convene the Local Hearing Panel within 25 working days of receipt of the final Investigator's report or as soon as practicably possible thereafter.

The Local Hearing Panel will comprise a minimum of three elected members of the Standards Sub-Committee plus an Independent Person. The Monitoring Officer will select the membership of each Local Hearing Panel. Whilst there is no legal requirement for the Sub-Committee to be politically balanced, its composition will, where possible, take into account political, demographic and equality issues and be representative, where Members' availability permits.

3.0 PRE-HEARING PROCESS

The Monitoring Officer will invite the Subject Councillor to give a response in writing to the Investigator's report. This is done to establish what is likely to be agreed and what is likely to be in dispute at the hearing.

The Local Hearing Panel, taking account of the advice of the Monitoring Officer, may issue directions about the way in which the Local Hearing Panel will be conducted, for example agreeing the number and identity of witnesses. Such directions may be given either before or at the Local Hearing Panel, and may be decided at a pre-meeting or by correspondence involving all members of the Local Hearing Panel.

Any pre-meeting to deal with pre-hearing process issues will be held in private without the Complainant or the Subject Councillor present.

4.0 DOCUMENTATION

Local Hearing Panel meetings are subject to the normal rules for publication of Council Agendas and Access to Information.

The Agenda papers for the Local Hearing Panel will include:

- Complaint form and documentation
- Subject Councillor's written response
- Investigating Officer's report
- Monitoring Officer report
- For reference: Code of Conduct, Standards Committee Local Hearing Panel Procedure Rules

The Agenda and documents will be published under the Council's rules for exempt information. Prior to the Local Hearing Panel, any documentation issued or exchanged during the process must be treated by all recipients as confidential unless and until the Local Hearing Panel resolves that the press and public should be excluded from the meeting at which the allegations are going to be heard.

If the Local Hearing Panel agrees that the meeting should be held in public, the Investigating Officer's 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 LOCAL HEARING PANEL PROCEDURE

5.1 The Local Hearing Panel will follow usual Committee procedures for apologies, selection of a Chair for that meeting and declarations of interests.

5.2 The quorum for a Local Hearing Panel will be 2 elected Members from the Standards Sub-Committee. Substitute Members are allowed only from the membership of the

Standards Sub-Committee. Members will only be able to sit on the Local Hearing Panel if they have undertaken standards training within the preceding two years.

- 5.3 The Local Hearing Panel will be assisted on matters of law and procedure by the Legal Advisor. The Local Hearing Panel 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 Councillor and the Investigating Officer.
- 5.4 The hearing will normally be held in public. However, the Local Hearing Panel will consider, having regard to any representations made by the Investigating Officer and / or by the Subject Councillor and advice from the 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*.
- 5.5 The Subject Councillor may be represented or accompanied by Counsel or a Solicitor or, with the permission of the Local Hearing Panel, any other person.
- 5.6 Normal hearing rules will apply in terms of providing opportunities to question witnesses and test evidence, subject to the principles of natural justice and the Human Rights Act 1998.
- 5.7 If the Subject Councillor (or their appointed representative) is not present, then the Local Hearing Panel will consider whether to proceed and hear the case and make a decision in absence, or whether to adjourn the hearing to another time or date. If the Subject Councillor has indicated that the hearing should continue in the absence of the Subject Councillor, this will normally happen.
- 5.8 The Chair will introduce the Members of the Local Hearing Panel, the Independent Person, the Legal Advisor, the Investigating Officer, the Subject Councillor and any other persons present.
- 5.9 The Legal Advisor will give a brief outline of the allegation before the Local Hearing Panel, 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.
- 5.10 The Investigating Officer will present the report into the allegation against the Subject Councillor including any findings of fact and make representations to substantiate the conclusion that the Subject Councillor has failed to comply with the Code of Conduct.
- 5.11 The Subject Councillor (or their representative) may question the Investigating Officer.

- 5.12 The Local Hearing Panel Members may question the Investigating Officer.
- 5.13 The Investigating Officer may call such witnesses as necessary (which may or may not include the Complainant).
- 5.14 The Subject Councillor (or their appointed representative) may question any witnesses called by the Investigating Officer.
- 5.15 The Local Hearing Panel Members may question any witnesses called by the Investigating Officer.
- 5.16 The Investigating Officer may ask further questions of any witnesses in order to clarify any point brought out in questioning of the witness by the Subject Councillor or the Local Hearing Panel.
- 5.17 The Subject Councillor (or their appointed representative) will present the case in relation to the Investigating Officer's findings and make representations about why The Subject Councillor considers that they did not fail to comply with the Code of Conduct. If the Subject Councillor admits that they breached the Code of Conduct the Local Hearing Panel may move to paragraph 5.32 below.
- 5.18 The Investigating Officer may question the Subject Councillor.
- 5.19 The Local Hearing Panel may question the Subject Councillor.
- 5.20 The Subject Councillor may call any witnesses.
- 5.21 The Investigating Officer may question any witness called by the Subject Councillor.
- 5.22 The Local Hearing Panel may question any witness called by the Subject Councillor.
- 5.23 The Subject Councillor may ask further questions of any witness in order to clarify any point brought out in questioning of the witness by the Investigating Officer or the Local Hearing Panel.
- 5.24 The Independent Person may ask questions of the Investigating Officer, the Subject Councillor and any witness called by either of them, after such persons have been questioned by the Local Hearing Panel.
- 5.25 The Investigating Officer will sum up the case in relation to the findings in their report.

- 5.26 The Subject Councillor (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.
- 5.27 The Independent Person will give views to the Local Hearing Panel and these will be recorded in the Minutes of the meeting.
- 5.28 The Local Hearing Panel 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 Panel 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. 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 Chairman chooses to exercise a casting vote.
- 5.29 The Local Hearing Panel will announce their decision as to whether there has been a breach of the Code 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 Local Hearing Panel will provide reasons for their decision and will explain any reasons why any advice from the Independent Person has or has not been followed in giving its decision.
- 5.30 If the Local Hearing Panel decide that the Subject Councillor has not breached the Code, the Local Hearing Panel will dismiss the complaint and take no further action. However, they may still make general recommendations to the Council, its Standards Sub-Committee or the Monitoring Officer or Town or Parish Council on any remedial actions if it considers necessary to address the issues raised.
- 5.31 If the Local Hearing Panel decide that the Subject Member has breached the Code then the following paragraphs will apply.
- 5.32 The Local Hearing Panel may request, or allow, the Complainant, whether or not called as a witness, to make a statement in relation to the effect on the Complainant of any conduct of the Subject Councillor which is the subject of the breach. Such a statement may be made in person to the Local Hearing Panel or may be submitted in writing, but if submitted in writing, will be shown to both the Investigating Officer, the Subject Councillor and the Independent Person. A Complainant who makes such a statement may be questioned by the Local Hearing Panel, but may not be questioned in relation to the statement by the Investigating Officer or the Subject Councillor without the consent of the Local Hearing Panel.

- 5.33 The Investigating Officer may make representations as to whether the Local Hearing Panel should impose a sanction and what form any sanction should take.
- 5.34 The Local Hearing Panel may question the Investigating Officer in relation to any such representations.
- 5.35 The Subject Councillor (or their appointed representative) may make representations as to whether the Local Hearing Panel should impose a sanction and what form any sanction should take and may make representations as to mitigation.
- 5.36 The Local Hearing Panel may question the Subject Councillor in relation to any such representations.
- 5.37 The Legal Advisor will then raise any points that need to be addressed before the matter is determined.
- 5.38 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.
- 5.39 The Local Hearing Panel 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.
- 5.40 The Local Hearing Panel 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 Committee in this regard. The Local Hearing Panel has no power to suspend or disqualify the member or to withdraw or suspend allowances. The Local Hearing Panel may:
- Censure or reprimand the Subject Councillor;
 - Recommend to the Subject Councillor'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 Councillor be removed from the Cabinet or removed from particular Cabinet Portfolio responsibilities;
 - Recommend to Council that the Subject Councillor 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 Councillor;
 - Publish its findings in respect of the Subject Councillor's conduct;
 - Report its findings to Council, or to a Town or Parish Council, for information.
- 5.41 The Local Hearing Panel 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 Local Hearing Panel 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.

- 5.42 The Monitoring Officer will, within 10 working days of the Local Hearing Panel prepare a formal Decision Notice, in consultation with the Chair of the Local Hearing Panel, and send a copy to the Complainant, to the Investigating Officer and to the Subject Councillor (and to the Town or Parish Council if appropriate). The Decision Notice will be published as part of the Minutes of the Local Hearing Panel meeting and will be placed on the Council's website unless the Monitoring Officer determines that it should remain confidential.
- 5.43 The findings and recommendations of the Local Hearing Panel are final and there is no right of appeal against the decision of the Local Hearing Panel.
- 5.44 The Chair of the Local Hearing Panel has the right to depart from this procedure, in consultation with the Monitoring Officer, or Legal Advisor, at any hearing where it is considered it is sensible to do so, to deal with the case fairly, effectively and in the public interest, provided that the principles of natural justice are upheld.