



Hearings Sub-Committee agenda

Date: Wednesday 22 November 2023
Time: 9.45 am
Venue: Conference Room 1, Gateway, Aylesbury

Membership:

M Baldwin, P Brazier and H Mordue

Agenda Item	Page No
1 Election of Chairman	
2 Declarations of Interest	
3 Procedural documents Hearing Sub-Committee - Contested Hearing Procedure Buckinghamshire Council <i>Arrangements for dealing with complaints against councillors</i>	3 - 8
4 Exclusion of the Press and Public To resolve that under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item(s) of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Act. Paragraph 1 Information relating to an individual	
5 Determination of Code of Conduct Complaint PC63 Regarding a Parish Councillor	9 - 60

If you would like to attend a meeting, but need extra help to do so, for example because of a disability, please contact us as early as possible, so that we can try to put the right support in place.

For further information please contact: Clare Gray democracy@buckinghamshire.gov.uk

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**STANDARDS AND GENERAL PURPOSES COMMITTEE OUTLINE
PROCEDURE FOR HEARINGS SUB-COMMITTEE (CONTESTED)**

Preliminary Procedural Issues

1. Introductions.
2. Declarations of Interest (if any).
3. To consider any request for the exclusion of Press and Public.

Findings of Fact

4. Monitoring Officer (or his/her representative) to present summary report and refer to outcome of pre-hearing process.
5. Investigating Officer to present report and call such witnesses as he/she considers necessary to substantiate his/her conclusion(s) within the report.
6. Subject Member (or his/her representative) to raise/clarify issues with the Investigating Officer, including the questioning of the Investigating Officer's witnesses.
7. Members of the Sub-Committee to raise/clarify issues with the Investigating Officer, including the questioning of the Investigating Officer's witnesses.
8. Subject Member (or his/her representative) to present their case and call such witnesses as he/she considers necessary.
9. Investigating Officer to raise/clarify issues with the Subject Member (or his/her representative), including the questioning of the Subject Member's witnesses.
10. Members of the Sub-Committee to raise/clarify issues with the Subject Member (or his/her representative), including the questioning of the Subject Member's witnesses.
11. Views of the Independent Person sought.
12. Members of the Sub-Committee to raise/clarify issues with the Independent Person.
13. The Sub-Committee will retire, along with the Monitoring Officer, to determine its findings of fact.
14. The Sub-Committee's decision will be reported back to the meeting by the Democratic Services Officer.

Breach of the Code of Conduct

15. The Sub-Committee will need to consider whether or not, based on the facts it has found, the Subject Member has breached the Code of Conduct.
16. Investigating Officer to address the Sub-Committee on whether the facts found constitute a breach of the Code of Conduct.
17. Subject Member (or his/her representative) to address the Sub-Committee as to why the facts found do not constitute a breach of the Code of Conduct.
18. Views of the Independent Person sought.
19. Members of the Sub-Committee to raise/clarify issues.
20. The Sub-Committee will retire, along with the Monitoring Officer, to determine whether there has been a breach of the Code of Conduct. The Sub-Committee's decision will be reported back to the meeting by the Democratic Services Officer.

(If the Sub-Committee determine that there has been no breach of the Code of Conduct, the complaint will be dismissed. If, however, the Sub-Committee determine that there has been a breach of the Code of Conduct, the procedure at paragraph 21 will apply).

Action to be taken

21. The Sub-Committee will need to determine what sanction, if any, should be imposed as a result of the Subject Member's breach of the Code of Conduct.
22. Monitoring Officer (or his/her representative) to outline possible sanctions.
23. Investigating officer to make submissions on appropriate sanction, if any.
24. Subject Member (or his/her representative) to make submissions on whether any sanction should be imposed.
25. Views of the Independent Person sought.
26. Members of the Sub-Committee to raise /clarify issues.
27. The Sub-Committee will retire, along with the Monitoring Officer, to consider what sanction, if any, should be imposed. The Sub-Committee's decision will be reported back to the meeting by the Democratic Services Officer.

Close of Hearing

3. Arrangements for Dealing with Complaints against Councillors

Context

- 3.1. The Council is committed to promoting and maintaining high standards of conduct amongst its councillors and has adopted a Code of Conduct setting out the conduct it expects of its councillors as they carry out that role.
- 3.2. A copy of the Council's Code of Conduct for Councillors is set out in Part I Section 2 of this Constitution. It is also available for inspection on the Council's website.
- 3.3. The Code applies to councillors or co-opted members when they go about the work of the Council or their role as a councillor or co-opted member. The Council will not investigate complaints relating to a councillor's or co-opted member's private life.
- 3.4. If anyone thinks a councillor or co-opted member has not complied with the Council's Code of Conduct for Councillors (or in relation to Town and Parish councillors has not complied with their Town or Parish Code of Conduct) a complaint can be made to the Monitoring Officer who will consider the complaint in the following way.

How We Deal with Complaints

Initial Assessment

- 3.5. The Monitoring Officer will carry out an Initial Assessment to determine whether the complaint is within the Code of Conduct and whether, having regard to the referral criteria in Paragraph 3.11 below it should be progressed.

Stage One

- 3.6. If the Monitoring Officer determines that the complaint should be progressed we will tell the councillor or co-opted member that you are complaining about (also called the 'subject member') that we have received a complaint and provide them with details of your complaint which may include a copy – unless you have requested confidentiality (in which case your details will not be disclosed unless and until your request for confidentiality has been considered – see further below).
- 3.7. The subject member will be invited to respond within 20 working days – including in their response any suggestion to resolve the complaint.
- 3.8. Details of the response will be made available to you and you will be asked if you are satisfied – if yes, no further action will be taken or the action proposed by the subject member will proceed; if not, you will be asked if you wish your complaint to be considered further under Stage Two

Stage Two

- 3.9. In most cases your complaint will be considered by the Council’s Monitoring Officer, or their Deputy, or by the Monitoring Officer and the Chairman/Vice-Chairman of the Councils Standards and General Purposes Committee if considered appropriate due to the seriousness of the alleged behaviour. An Independent Person (see Paragraph 3.17 below) may be consulted and their views taken into account. An Independent Person will be consulted if a referral for investigation is deemed appropriate or if the Monitoring Officer considers it will not be possible to resolve the complaint informally. This will happen within an average of 20 working days of the date of the commencement of Stage Two.

Stage Three

- 3.10. If the decision at Stage Two is to investigate the complaint, the Monitoring Officer will appoint an investigator whose report will be considered by the Hearings Sub-Committee of the Council’s Standards and General Purposes Committee– or in some cases to the full Committee – who will decide whether (i) a breach has taken place and if so the appropriate remedy; (ii) a formal hearing is necessary to determine whether a breach has occurred and/or the appropriate remedy; or (iii) if and what any further action is appropriate.

Referral Criteria

- 3.11. Whilst each allegation will be considered on its individual merits, the following “Referral Criteria” will be used to decide whether to accept a complaint and as factors for consideration at each stage of the process:
- a. the public benefit in investigating the alleged complaint;
 - b. the availability and cost of resources with regard to the seriousness of the alleged matter;
 - c. whether the information submitted is sufficient to make a decision as to whether to refer for investigation;
 - d. is the subject member complained about still a serving councillor or co-opted member;
 - e. is the complaint the same as or similar to a previous complaint;
 - f. the time passed since the alleged conduct occurred;
 - g. the complaint involves conduct too trivial to warrant further action;
 - h. does the complaint appear to be malicious, politically motivated or tit for tat;
 - i. whether the matter complained of is an individual act or part of a continuous pattern of behaviour which should be cumulatively considered;
 - j. steps taken or proposed to remedy the action complained of;
 - k. the complainant’s view of the action taken or proposed.

General

- 3.12. The relevant parties will be kept informed at all stages of the complaint. Further details are available on the Council's website.
- 3.13. There is no right of appeal under any stage of this complaints procedure.
- 3.14. The remedies available may include:
- a. informal resolution (ie where a formal remedy may not be appropriate but a resolution is considered advisable. This is not limited to, but may take the form of, an apology or an explanation). An informal resolution may be by recommendation only;
 - b. Report to Council;
 - c. Formal letter to subject member;
 - d. Formal censure by motion;
 - e. Recommendation to Leader/Group Leader or Town/Parish Council, as applicable, that the subject member is removed from Special Responsibilities – i.e. Cabinet/Committees/Outside Bodies;
 - f. Press release or other publicity.
- 3.15. Please note the Council has no authority to withhold allowances or to suspend or remove a councillor from office.
- 3.16. All decisions should be published unless the subject member requests non-publication where it is found that the Code of Conduct has not been breached.
- 3.17. An **Independent Person** is someone who has been appointed by the Council under Section 28 of the Localism Act 2011. Independent Persons must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all councillors of the Council – i.e. by full Council.
- 3.18. A Person is considered not to be 'independent' if:-
- a. they are or have been in the previous 5 years an elected or co-opted member or officer of the Council or any Parish in the area or an elected or co-opted member of any committee or sub-committee of the Council or any Parish in the area or
 - b. they are a relative or close friend of a current councillor or co-opted member or officer of the Council or any Parish in the area – or any elected or co-opted members of any committee or sub-committee of such a Council.

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