

Spelthorne Borough Council

Members' Code of Conduct Committee

Hearing Procedures - Assessment Hearings

To encourage the confidence of members and the public the following procedures have been adopted by the Members' Code of Conduct Committee to ensure a consistent approach is taken to assessing complaints against councillors locally.

The Panel will comprise of three voting members of the Members' Code of Conduct Committee (councillors) selected by the Monitoring Officer in consultation with the Chairman of the Members Code of Conduct Committee. The councillors shall, wherever possible, be selected on a politically proportionate basis. An Independent Member is invited to Chair the Panel but legally cannot vote on the decision.

The Assessment Panel shall meet promptly, with the expectation that all assessments, investigations, resolutions and hearings will be completed within a maximum period of three months arising from the time of the complaint. All those involved in the complaint should do their utmost to ensure that this can happen.

A flowchart is shown at **Appendix A** which summarises the position under these arrangements.

INTERPRETATION

Member - means the councillor or co-opted member of the authority who is the subject of the allegation being considered by the Members' Code of Conduct Committee, unless otherwise stated.

Investigator - means the Monitoring Officer, an independent investigator appointed by the Monitoring Officer or a senior officer of Spelthorne Borough Council or another local authority who has agreed to assist the Committee. (ESO) and includes his or her nominated representative.

Committee - also refers to an Assessment Panel of the Members Code of Conduct Committee;

Legal Advisor - means the officer responsible for providing legal advice to the Members Code of Conduct Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

Representation - the Member is not expected to be present, represented or accompanied during the initial assessment stages of a complaint. Any exception to this rule will only be made by the Chairman in exceptional circumstances following advice from the Monitoring Officer.

Legal Advice – the Committee may take legal advice, in private if necessary, from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with other persons present if the meeting is taking place in public.

Local Resolution – an informal means of resolving a complaint to the mutual satisfaction of the complainant and the Member concerned. Usually this involves an apology of some description.

Pre-hearing Process

1. The Monitoring Officer will receive a complaint regarding a member and ensure that the complaint is in writing. Where a complaint has been properly made, and appears to be related to the Code of Conduct then the Monitoring Officer will inform the Member and seek his or her initial views on the complaint. If there is any opportunity to divert the complaint with a local resolution at an early stage the Monitoring Officer will pursue this with the complainant and the Member.
2. The Monitoring Officer will consider the complaint and the Members response to it and then take into account the Assessment Criteria of the Members' Code of Conduct Committee.
3. The Monitoring Officer will select an Independent Person from the Panel and consult with the Independent Person.
4. After receiving the advice of the Independent Person the Monitoring Officer will inform the Member of the advice and advise the Member of his or her right to consult with the Independent Person.
5. Again, If there is any opportunity to divert the complaint with a local resolution at an early stage the Monitoring Officer will pursue this with the complainant and the Member.
6. The Monitoring Officer will take into account any advice offered by the Independent Person. If a local resolution can be achieved then the Monitoring Officer will facilitate this and report the outcome to the next available meeting of the Members' Code of Conduct Committee.
7. If a local resolution cannot be achieved (either because the Member concerned is not willing to co-operate with the suggested resolution, or the complainant is unwilling to accept it) then the Monitoring Officer will convene a Hearings Panel of the Members Code of Conduct Committee to consider the next steps.
8. The Monitoring Officer will advise all parties of the date and time for the Assessment Panel and provide an opportunity to provide any written representations in advance of the date of the hearing. No parties will be invited to the Assessment Panel at this stage. This is to ensure that the early assessment of complaints is undertaken swiftly in accordance with the criteria published by the Members Code of Conduct Committee. It is not expected that all the facts of the case need to be aired in full at this preliminary stage.
9. The Monitoring Officer will prepare a factual report including the following matters:
 - a. Details of the complaint;
 - b. Details of the Member's response to the complaint;
 - c. Any evidence which is available and to hand without the need for investigation;
 - d. Details of the advice offered by the Independent Person;
 - e. Details of any attempts to negotiate a local resolution; and
 - f. Written representations from any party in accordance with paragraph 8 above.

Hearings Procedure

10. At the start of the hearing the Chairman will:
 - Introduce members of the Committee and others in attendance
 - Explain the purpose of the meeting and how it will proceed
11. The Legal Advisor will advise the Chairman whether the hearing should be in public or private. The Access to Information Rules will apply to this hearing as it would

apply to any other meeting of the Council. In order to have an effective airing of matters which are still at a preliminary stage it is not expected that the Panel will take place in public unless there are exceptional circumstances which dictate otherwise.

12. Should the Panel decide to proceed with the hearing in public, it will have the discretion to move into private session in order to deliberate and make its decision.
13. The Committee will then consider the report of the Monitoring Officer and take into account the Assessment Criteria of the Members Code of Conduct Committee.
14. The Committee will then consider whether a complaint should be:
 - a. Rejected as not disclosing a possible breach of the Code of Conduct
 - b. Referred to the Monitoring Officer to try any further attempts at local resolution following advice from the Assessment Panel. The Hearings Panel may also indicate that should any party fail to comply with its advice on a local resolution then the complaint may be:
 - i. Terminated, or
 - ii. Referred for Investigation with a view to a full hearing.
 - c. Investigated with a view to a full hearing.
15. The Monitoring Officer will write to all parties within 7 days to advise them of the outcome of the Assessment Panel.

27 February 2013

Arrangements Flowchart

