

RYEDALE DISTRICT COUNCIL

Determination of Code of Conduct Complaints

Consideration and Hearings Procedure

A. Introduction

The purpose of this document is to set out the procedure to be followed where an investigation has been carried out into a complaint that a Member of the Ryedale District Council or the Parish/Town Councils within Ryedale District has breached the Code of Conduct.

The overall task for Members is to decide whether there should be a formal Hearing and if so whether there has been a breach of the Code and what sanction(s) should be applied.

The following procedure has been drafted taking into account the requirements of the Standard Committee (England) Regulations 2008 and guidance issued by the Standards Board for England. The document seeks to set out a framework for Members to determine the relevant issues.

Under the Regulations there are two distinct stages involved in determining complaints:-

- (1) Consideration of the Investigation Report; and
- (2) The Hearing

For the purposes of this procedure, a "Complainant" is a person who has made the complaint about the Member and the "Subject Member" is the person about whom the complaint is made.

B. Consideration of the Investigation Report

On completion of an investigation the Monitoring Officer or the person doing the investigation on the Monitoring Officer's behalf must make one of the following findings:-

- There has been a failure to comply with the Code; or
- There has not been a failure to comply with the Code.

The Monitoring Officer must provide a copy of the Investigation Report to the Subject Member. If the investigation was undertaken by the Standards Board for England and the matter has been referred back to the Standards Committee for the Ryedale District a report will also be provided to the Subject Member. The Monitoring Officer will refer the report to the Standards Committee (or Sub-Committee) for consideration.

The Standards Committee (or Sub-Committee) will then consider the report.

If the Investigator in their report finds no failure to comply with the Code, the Standards Committee must decide *whether* to accept that recommendation. If the Investigation Report finds that there has been a failure to comply with the Code, a Hearing *must* take place *unless* the Standards Committee decide that the matter should be referred to the Adjudication Panel for England for determination. Examples where it might be appropriate to refer the matter are, in situations where the potential breach is extremely serious or where due to the nature of the complaint holding a Hearing at the Ryedale District Council would be difficult.

C. Hearings Procedure

Members should bear in mind that a Standards Committee Hearing is a formal meeting of the Authority and is not a Court of law. It does not hear evidence under oath, but it does decide factual evidence on the balance of probabilities.

The Standards Committee should work at all times in a fair, independent and politically impartial way. This helps to ensure that members of the public and Members of the Authority have confidence in its procedures and findings.

The Hearings Committee will follow the following stages:-

Setting the Scene

- (1) Formal introductions.
- (2) The Chairman will outline how the Committee will be run and deal with any preliminary procedural issues. For example, determine whether the matter should be held in private and the reasons for this.

Making Findings of Fact

- (3) The Committee will consider whether there are any significant disputed facts contained within the Investigation Report.
- (4) If there is no disputed facts, the Committee will move onto the next stage.
- (5) If there is a dispute, the Investigator will be invited to make representation to support the relevant findings of fact in the Report.
- (6) The Investigator may call any necessary supporting witnesses to give evidence.
- (7) Direct questioning of any witness will be at the discretion of the Chairman.
- (8) The Subject Member will make representations to support their version of facts and call evidence as necessary.
- (9) The Investigator will be given the opportunity to challenge any evidence put forward by the Member.

- (10) The Committee can at any time ask any questions or seek clarification from either party.
- (11) The Committee will then consider the representations and evidence in private with relevant advice being received from officers.
- (12) On their return, the Chairman will announce the Committee's findings of fact.

Did the Subject Member fail to follow the Code of Conduct?

- (13) The Subject Member will be invited to make representations why the Committee should decide that they have not breached the Code of Conduct.
- (14) The Committee will invite the Investigator to make any verbal or written representations.
- (15) The Committee may at any time question anyone.
- (16) The Subject Member should be invited to make any final, relevant points as to whether there has been a breach of the Code of Conduct.
- (17) The Committee will then consider representations in private.
- (18) On their return, the Chairman will announce the Committee's decision as to whether the Subject Member has failed to follow the Code.

(If the Committee decides that the Subject Member has not failed to follow the Code, the Committee can move onto consider whether it should make any recommendations to the Authority or the Monitoring Officer following the investigation to promote the highest standards of behaviour in the Ryedale District Council).

If the Subject Member has been found to have breached the Code of Conduct

- (19) The Committee will consider any verbal or written representations from the Investigator and the Subject Member as to:-
 - Whether the Committee should apply a sanction;
 - What form any sanction should take.
- (20) The Committee may question the Investigator and Subject Member, and take legal advice.
- (21) The Committee will then deliberate in private to consider whether to impose a sanction and if so, what it should be.

Decision

- (22) On their return, the Chair will announce the Committee's decision.

- (23) After considering any verbal or written representations from the Investigator, the Committee will decide whether it should make any recommendations to the Authority with a view to promoting high standards of conduct.
- (24) A full written decision will be provided to all parties as soon as reasonably practicable after the Hearing.

D. Appeal

If you wish to make an application to appeal against a decision of a Standards Committee then please complete the Notice of Appeal form listed on the website referred to below. Appeals will be considered only if the Tribunal gives permission and the application must be made within 28 days of the member's receipt of the Standards Committee full written decision.

Further guidance may be obtained on the First Tier Tribunal website on the following link:

<http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/local-government-standards/appeals.htm>