

APPENDIX A

CONDUCT OF HEARINGS

1. SETTING THE SCENE

- 1.1. Following formal introductions, the chairman of the Standards Committee will explain how the hearing will be conducted.
- 1.2. The chairman will remind the persons present that it may not be a defence to an allegation of defamation that the alleged defamatory words were uttered during the course of the hearing.
- 1.3. The chairman will advise the parties that the Committee has no power to make awards of costs.
- 1.4. The Committee will clarify and resolve any issues or disagreements about how the hearing should be conducted that were not resolved during the pre-hearing process.

2. CONSIDERATION OF THE FINDINGS OF FACT

Disputed facts

- 2.1. The Committee will identify any significant dispute of the finding of facts contained in the ethical standards officer or investigating officer's report (as the case may be).
- 2.2. If the facts are not disputed, the Committee will then consider whether the member concerned did in fact breach the relevant code of conduct.

Representations on disputed facts

- 2.3. If the facts are disputed, the ethical standards officer or the investigating officer (as the case may be), or his representative if present, will be invited to make any representations that he considers necessary in support of particular findings of fact.
- 2.4. The ethical standards officer or the investigating officer (as the case may be) may, with the Committee's permission, call named witnesses to give evidence in support of particular findings of fact.
- 2.5. With the Committee's permission, the member concerned may challenge the evidence put forward by any of the ethical

standards officer or investigating officer's (as the case may be) witnesses.

- 2.6. The member concerned will then be invited to make representations to support his version of the facts and, with the Committee's permission, call named witnesses to give supporting evidence.
- 2.7. With the Committee's permission, the ethical standards officer or the investigating officer (as the case may be) may challenge the evidence put forward by any of the witnesses of the member concerned.
- 2.8. The members of the Committee may question at any time witnesses called to give evidence on behalf of the member concerned or the ethical standards officer or investigating officer (as the case may be) or his representative.

Disputed facts of which prior notice has not been given

- 2.9. If the member concerned wishes to dispute a finding of fact of which he has not given prior notice (in accordance with paragraph 8), he must satisfy the Committee that there was a good reason for having failed to give such notice that the particular finding of fact is a disputed fact.

The member concerned will not be permitted to dispute findings of fact at the hearing of which he has not given prior notice unless there are good reasons for failing to do so, such as new evidence coming to light.

- 2.10. If –
 - the member concerned disputes a particular finding of fact of which he has not given prior notice, and
 - the ethical standards officer or the investigating officer (as the case may be) or his representative is not present at the hearing,

the Committee will consider whether it would be in the public interest to continue in the officer's absence or adjourn the hearing to another date.

- 2.11. If the Committee decides to continue with the hearing, it may –
 - allow the member concerned to make representations on the disputed finding of fact and the ethical standards officer or investigating officer (as the case may be) or his

representative if present to make representations in reply; or

- consider the representations made by the member concerned on the disputed finding of fact in the ethical standards officer or the investigating officer (as the case may be) or his representative's absence, then decide to adjourn the hearing in order for named witnesses or the officer concerned or his representative to be given the opportunity to attend and make representations in reply.

3. FINDINGS ON DISPUTED FACTS, ETC.

3.1. On the conclusion of the representations (if any) made by or on behalf of both the member concerned and the ethical standards officer or the investigating officer (as the case may be), the Committee –

- will make findings on the disputed facts; and
- determine, on the basis of those findings, whether a *prima facie* case has been made that the member concerned has breached the relevant code of conduct (“a case to answer”).

3.2. If the Committee has determined that the member concerned has a case to answer –

- the member concerned will be invited to make representations as to why the Committee should determine that he has not breached the relevant code of conduct;
- the ethical standards officer or the investigating officer (as the case may be) or his representative will be invited to make oral or written representations as to why the Committee should determine that the member concerned has breached the relevant code of conduct; then
- the member concerned will be invited to make final representations in the light of the representations made by the officer concerned under the preceding sub-paragraph.

3.3. On the conclusion of the representations, the Committee will retire to deliberate upon the evidence and representations, but may reconvene at any stage to ask additional questions of the member concerned or the ethical standards officer or investigating officer (as the case may be) or his representative.

4. STANDARD COMMITTEE'S DETERMINATIONS

- 4.1. If the Committee decide that the member concerned has not breached the relevant code of conduct, the Committee will –
- make a finding of no failure; and
 - consider whether it should make any recommendations to the Council or parish council concerned with a view to promoting high standards of conduct among members.
- 4.2. If the Committee decides that the member concerned has failed to comply with the relevant code of conduct it will either –
- make a finding of failure but no action needs to be taken; or
 - make a finding of failure and that a sanction should be imposed.
- 4.3. In the case of a finding of failure but no action needs to be taken, the Committee will consider whether it should make any recommendations to the Council or parish council concerned with a view to promoting high standards of conduct among members.
- 4.4. In the case of a finding of failure and that a sanction should be imposed, the Committee will decide which of the sanctions, or combination of sanctions, in paragraph 10.2 of this Manual it is minded to impose.
- 4.5. Following the decision to impose a sanction (or combination of sanctions) the Committee will reconvene and invite the member concerned and the ethical standards officer or the investigating officer (as the case may be) or his representative to make oral or written representations on the proposed sanction (or combination of sanctions).

5. THE DECISION

- 5.1. The Committee's decision will be announced at the conclusion of the hearing and a written summary handed to the member concerned and the ethical standards officer or the investigating officer (as the case may be).
- 5.2. As soon as reasonably practicable following the conclusion of the meeting, and in any event not later than 2 weeks thereafter, the Committee will issue a full written decision.
- 5.3. The full written decision will contain details of –

- the allegation;
- the finding of facts, including disputed facts;
- the Committee's findings in respect of any witnesses who gave evidence before the Committee;
- the Committee's decision on whether the relevant code of conduct was breached; and
- the Committee's decision on whether a sanction or other course of action should be taken.