



## HEARING PROCEDURE – STANDARDS COMMITTEE

### 1.0 CHAIRMAN'S INTRODUCTION

- 1.1 The purpose of the Sub-Committee's hearing is to decide whether or not Parish Councillor Roger Bell (subject member) has failed to follow the Code of Conduct for Burscough Parish Council and, if so, to decide whether or not any sanction should be applied and what form any sanction should take. A list of sanctions can be found at paragraph 6.3 of the Hearing Procedure.
- 1.2 All of those present will introduce themselves.
- 1.3 The Chairman will advise that the hearing will be conducted using the Hearing Procedure enclosed with the agenda and the Sub-Committee will run the hearing as set out in this document.
- 1.4 *If the subject member is not in attendance, the Sub-Committee can consider the Investigation report in their absence. If the Sub-Committee is satisfied with the Subject Member's reason for not being able to attend, another date should be arranged for the hearing.*
- 1.5 The Chairman shall ask the Subject Member, the Investigating Officer and the Legal Adviser to the Sub-Committee whether they wish to exclude the Press or public from all or any part of the hearing.
- 1.6 If any of them so request, the Chairman shall ask them to put forward reasons for doing so and ask for responses from the others and the Sub-Committee shall then determine whether to exclude press and public from all or any part of the hearing. Where the Sub-Committee does not resolve to exclude press and public, the agenda and any documents which have been withheld from the press and public in advance of the meeting shall be made available to the press and public. See Appendix 'Confidential Information and Exclusion of the Public'.

### 2.0 PRELIMINARY PROCEDURAL ISSUES

- 2.1 Any issues or disagreements about how the hearing should continue should be resolved at this stage.

### 3.0 STAGE 1 – FINDINGS OF FACT

- 3.1 The Chairman will refer to the pre-hearing process summary to see if there are any significant disagreements with the facts contained in the Investigator's report?

If no, move to Stage 2.

If yes,

the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. (If the subject member disagrees with most of the facts, it may make sense for the investigator to start by making representation on all the relevant facts, instead of discussing each fact individually.)

- 3.2 With the Sub-Committee's permission, the investigator may call any necessary supporting witnesses to give evidence.
- 3.3 The Sub-Committee may give the subject member an opportunity to challenge any evidence put forward by any witness called by the investigator.
- 3.4 The subject member will then make representations to support their version of the facts and, with the Sub-Committee's permission, call any necessary witnesses to give evidence.

*At any time, the Sub-Committee may question any of the people involved or any of the witnesses and may allow the investigator to challenge any evidence put forward by witnesses called by the member.*

- 3.5 If the subject member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. If the investigator is not present, the sub-committee will consider whether it would be in the public interest to continue in their absence.
- 3.6 After considering the member's explanation for not raising the issue at an earlier stage, the sub-committee may then:
- (a) continue with the hearing, relying on the information in the Investigator's report;
  - (b) allow the subject member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary;
  - (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if he or she is not already.
- 3.7 Upon conclusion of the submission of evidence the Sub-Committee, the Member Services Officer and the Legal Adviser will move to another room to consider the representations and evidence in private.
- 3.8 On their return, the Chairman will announce the Sub-Committee's findings of fact.

*During the course of a hearing, the Sub-Committee may at any stage prior to the conclusion of the hearing, adjourn the hearing to obtain further information or undertake further investigation on any point specified by it.*

#### **4.0 STAGE 2 - DID THE MEMBER FAIL TO FOLLOW THE CODE?**

4.1 The Chairman will advise that the Sub-Committee needs to consider, based on the facts it has found, whether the subject member has failed to follow the Code of Conduct.

4.2 The subject member will be invited to give relevant reasons why the Sub-Committee should decide that they have not failed to follow the Code.

4.3 The Sub-Committee will then consider any verbal or written representations from the investigator.

*The Sub-Committee may, at any time, question anyone involved on any point they raise in their representations.*

4.4 The subject member will be invited to make any final relevant points.

4.5 The Sub-Committee, the Member Services officer and the Legal Advisor will then move to another room to consider the representations.

4.6 On their return, the Chairman will announce the Sub-Committee's decision as to whether the subject member has failed to follow the Code of Conduct.

#### **5.0 STAGE 3A - IF THE SUBJECT MEMBER HAS NOT FAILED TO FOLLOW THE CODE OF CONDUCT**

5.1 If the sub-committee decides that the subject member has not failed to follow the Code of Conduct: the Sub-Committee can move on to consider whether it should make any recommendations to the authority.

5.2 The process will then move to Stage 4 below (omitting the process at paragraph 6.)

#### **6.0 STAGE 3B - IF THE SUBJECT MEMBER HAS FAILED TO FOLLOW THE CODE OF CONDUCT**

6.1 the Sub-Committee will consider any verbal or written representations first from the investigator and then from the subject member as to:

(a) whether the Sub-Committee should apply a sanction

(b) what form any sanction should take.

*The Sub-Committee may question the investigator and the member, and take legal advice, to make sure they have the information they need in order to make an informed decision.*

6.2 The Sub-Committee, Member Services officer and Legal Adviser will then leave the room to deliberate in private to consider whether to impose a sanction on the subject member and, if so, what sanction it should be.

- 6.3 **If the Sub-Committee decides that the member has failed to follow the Code of Conduct and that the member should be sanctioned, it may do any one or a combination of the following:**

#### **Borough Councillor**

- A. Report its findings to Council for information;
- B. Recommend to the Member'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;
- C. Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- D. Instruct the Borough Solicitor to arrange training for the member;
- E. Recommend to the Council the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority.
- F. Recommend to the Council that it withdraws facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- G. Recommend that the Council exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

#### **Parish Councillor**

- A. Report its findings to the Parish Council for information;
- B. Recommend the Parish Council arrange training for the member;
- C. Recommend to the Parish Council the member be removed from all outside appointments to which he/she has been appointed or nominated by the authority.
- D. Recommend to the Parish Council that it withdraws facilities provided to the member by the Parish Council, such as a computer, website and/or email and Internet access.

*Notes:*

*If, at any time before the Sub-Committee has determined upon any sanction, the Sub-Committee considers that the nature of the failure to comply with the Code of Conduct for Members is a criminal matter, the Sub-Committee may instruct the Monitoring Officer to refer the complaint to the police. Advice will be sought from the Legal Advisor.*

### **7.0 STAGE 4 - THE DECISION**

- 7.1 On their return, the Chairman will announce the Sub-Committee's decision.
- 7.2 The Chairman will then advise the attendees
  - (a) that Member Services will provide a written decision including the findings, reasons and any sanction within two weeks of the date of the hearing.
  - (b) that a summary of the Sub-Committee's written decision will be published. on the Council's website.

## **Interpretation**

- *'Subject Member' means the member of the authority who is the subject of the allegation being considered by the Sub-Committee, unless stated otherwise. It also includes the Member's nominated representative.*
- *'Investigator' means the Appointed Investigator and includes their nominated representative.*
- *'Sub-Committee' is the Hearings Sub-Committee given delegated authority to conduct hearings rather than the main Standards Committee.*
- *'Legal adviser' means the officer responsible for providing legal advice to the Standards Committee/Sub-Committee. This may be the Monitoring Officer, the Deputy Monitoring Officer or another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.*

## **Representation**

*The Subject Member may be represented or accompanied during the meeting by a Solicitor, Counsel, or, with the permission of the Committee, another person.*

## **Legal Advice**

*The Sub-Committee may take legal advice, in private if necessary, from its legal adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Sub-Committee should be shared with the Subject Member and the Investigator if they are present.*