

**REVIEW OF ARRANGEMENTS FOR DETERMINING ALLEGATIONS OF BREACHES OF THE CODE OF CONDUCT**

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**Why has this report come to Full Council?**

To consider recommendation from Audit and Governance Committee to consider and agree the recommendations of the review group appointed in September 2013 to review the arrangements for determining breaches of the Code of Conduct.

**Recommendations:**

- (i)** That Council be recommended to agree the proposed changes to the Procedure for Local Determination of Complaints and the Procedure for Hearings; and
- (ii)** That the vacancies for a third Independent Person and a Parish representative are filled as soon as possible

**1 Introduction**

1.1 Section 28 of the Localism Act 2011 requires local authorities to adopt a Code of Conduct for members, and to have in place arrangements for allegations of breaches of the Code of Conduct to be investigated, and decisions made in cases where allegations of breaches have been proven.

1.2 The Council at its meeting on 14 June 2012 adopted a Code and agreed a set of arrangements for determining allegations of breaches. The arrangements include an assessment stage, a review stage which can be invoked at the request of a complainant if a decision at assessment stage of no action is taken, and a hearing stage for complaints that have been subject to a full investigation.

## **2 Review of Arrangements**

2.1 At the meeting of this Committee on 25 September 2013, it was agreed that as the arrangements agreed by Council in 2012 had been in place for over a year, and a number of cases considered under the agreed procedure, it would be appropriate and timely to review the arrangements to ensure they are fit for purpose. A Review Group was appointed for this purpose, comprising the Chair and Deputy Chair of this Committee, and Councillors John Bowman and Margarita Docherty (nominated by the Leader of the Council) and Councillor Bob Salkeld (nominated by the Leader of the Opposition Group). The Review Group met three times, and were assisted in their deliberations by the Chief Executive, the Monitoring Officer, the Deputy Monitoring Officer, and the two Independent Persons, John Graham and Anthony Payne.

## **3 Recommendations of Review**

3.1 The Review Group first considered the decisions taken by the Council in June 2012, and subsequently, to implement revised arrangements for the conduct of elected members, and for dealing with breaches of the Conduct. The Review Group agreed that those decisions and arrangements were sound and in accordance with statutory requirements, and RECOMMEND that there is no need for these to be fundamentally revisited. (NOTE: the Review did NOT include the Code of Conduct itself, since this a Cumbria-wide Code and needs to be reviewed on a county-wide basis also.)

3.2 The Review Group considered the role and number of Independent Persons, noting the statutory requirement for at least one, and the fact that Council had in 2012 agreed that, firstly, three positions of Independent Person should be established and that one was still vacant; and, secondly that a position of Parish representative be established to assist in determining allegations of breaches involving members of parish councils in the Borough, and that this was also still vacant. The Review Group RECOMMEND that both vacancies are filled as soon as possible, the parish vacancy through the Cumbria Association of Local Councils.

3.3 The Review Group considered in detail the Procedure for Determination of Breaches of the Code of Conduct, and agreed a number of recommendations for amendments, which are shown at Appendix "A", the principal changes being:

- a requirement for each complainant and subject member to maintain confidentiality
- introduction of a fourth test of a complaint at Assessment stage, to enable a complaint to be rejected on the grounds that it is frivolous, vexatious or malicious
- the addition of the Chair of Audit and Governance Committee to the Hearings Panel

3.4 The Review Group also agreed a number of minor amendments to the Hearings Procedure, which appear at Appendix "B".

3.5 The Review Group RECOMMEND Audit and Governance Committee to recommend Council to agree the proposed changes to both documents.

## **4 Conclusion**

4.1 The Review has been an important and worthwhile exercise which has ensured that the procedures implemented by Council in 2012 are robust and fit for purpose.

Consultees: Chief Executive; Section 151 Officer; Chair

Monitoring Officer comments: Included in report

S151 Officer comments: There are no additional cost implications.

EIA comments: No groups are advantageously or disadvantageously affected by the proposals in the report.

Appendices – Appendix “A” – Procedure for Determination of Breaches  
Appendix “B” – Procedure for Hearings

## Copeland Borough Council Procedure for Initial Assessment of Allegations of Breaches of the Code of Conduct

### Introduction

1 This procedure applies when a complaint is received that a Borough Councillor, co-opted Member or Parish Councillor has or may have failed to comply with the relevant Code of Conduct.

2 The person making the complaint will be referred to as the complainant and the person against whom the complaint has been made will be referred to as the subject member.

3 No Member, Independent Person, or officer will participate in any stage of the assessment process if they have any personal conflict of interest in the matter, including any earlier stages of the assessment or processing of a complaint, *except that they may participate in both the Assessment Stage and Hearing Stage; or both Review Stage and Hearing Stage; but not both Assessment and Review Stages.*

### Assessment Hearing

~~[Add additional screening stage involving only MO and Independent Person to filter out malicious, vexatious, trivial or tit-for-tat complaints?]~~

4 Upon receipt of a complaint that a Borough Councillor, Co-opted Member or Parish Councillor has or may have failed to comply with the Code of Conduct, the relevant Democratic Services Officer will convene as soon as possible and in any event within 20 working days a meeting of an Assessment Panel. The subject Member will be informed that a complaint has been received and the nature of the complaint and the identity of the complainant, unless the complainant has requested confidentiality, in which case the complainant's identity will not be revealed to the subject member until the Assessment Hearing has considered the matter (see below). *Both the complainant and the subject member will be informed at this stage that the complaint is confidential and must remain so until the complaint has been finally determined, in fairness to both parties. A breach of confidentiality may invalidate a complaint, and an Assessment or Review Panel may reconvene at any time to re-consider a complaint in the light of a breach of confidentiality, and may rule a complaint invalid if it considers the breach has prejudiced either party.*

5 The Assessment Panel will comprise the Chief Executive and the Monitoring Officer (or their nominated substitutes) in consultation with at least one Independent Person. The Panel will receive in advance of the meeting a copy of the complaint, together with a report prepared by the Monitoring Officer or his representative which will set out the following details:

- Whether the complaint is within the jurisdiction of the Council – i.e. whether the subject member was subject to a relevant code of conduct at the time of the allegation
- The paragraphs of the Code of Conduct the complaint might refer to, or the paragraphs the complainant has identified
- A summary of key aspects of the complaint if it is lengthy or complex
- Any further information that the officer has obtained to assist the Assessment Panel with its decision. This may include minutes of meetings, a copy of a member's entry in the register of interests, information from Companies House or the Land Registry, or other easily obtainable documents

### The Assessment Process

6 The Assessment Panel will first consider whether the complaint meets the following tests:

- The complaint is against one or more named members of the Borough Council or a parish council within Copeland Borough;
- The subject member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time;
- The complaint, if proven, would, *on the overall balance of probabilities*, be a breach of the Code under which the subject member was operating at the time of the alleged misconduct;
- *The complaint is not frivolous, vexatious or malicious*

If the complaint fails one or more of these tests, then the decision of the Assessment Panel must be that no further action will be taken.

7 If the complaint meets the above tests, then the Assessment Panel will proceed to consider which of the following courses of action is appropriate, having regard to all relevant circumstances:

~~(i) That it appears on the overall balance of probabilities that there has been no breach of the Code and no action is necessary, but may offer alternative services to both parties if it considers that they may be beneficial, such as mediation, arbitration, training, or other means~~

(ii) That there is a prima facie case to answer involving a DPI and that the matter should be referred to the police for investigation.

(iii) That there is a prima facie case to answer involving an interest other than a DPI, or other breach of the Code, and that the matter should be referred for investigation by an independent investigating officer appointed by the Monitoring Officer

(iv) That there appears *on the overall balance of probabilities* to have been a technical breach of an interest other than a DPI, or other breach of the Code, but that a full

investigation cannot be justified. ~~And~~ *or it may be appropriate* that an informal resolution to the complaint involving mediation, arbitration, training, or other means, should be sought, to the mutual satisfaction of both parties. *Mediation or arbitration will only be provided with the prior agreement of both parties.*

8 The Assessment Panel will, unless there are exceptional circumstances, reach a decision within 20 working days of receipt of the complaint.

9 If the Assessment Panel decides to take no action over a complaint, then it will arrange for notice of that decision, including the reasons for it, to be given to the complainant, the subject member, and, if the subject member is a parish councillor, to the clerk to the relevant parish council. This will be done within 5 working days after the date of the meeting.

10 If the Assessment Panel decides to refer the complaint to the Monitoring Officer *for investigation*, it will arrange for a summary of the complaint to be sent to the complainant and the subject member stating what the allegation is, and the type of referral that has been made. This will be done within 5 working days after the date of the meeting.

11 However, the Assessment Panel may decide not to give the subject member a summary of the complaint if it considers that doing so would be against the public interest or would prejudice any future investigation. In considering this, the Panel will consider in particular whether it is likely that the subject member may intimidate the complainant or any witnesses involved or whether early disclosure of the complaint may lead to evidence being compromised or destroyed. The Panel will balance whether the risk of the case being prejudiced by the subject member being informed of the details of the complaint at that stage may outweigh the fairness of notifying the subject member.

12 Where an allegation is referred for investigation by an independent investigating officer, a report on the investigation should be submitted to the Monitoring Officer within 2 months of the date of referral, or failing that a progress report with a projected completion date should be provided within 2 months.

13 Where a report of an independent investigating officer is made with a finding that there has been a breach of the Code, a hearing will be conducted by the *independent Chair of the Audit and Governance Committee*, the Chief Executive and the Monitoring Officer, in consultation with at least one independent person, within ~~3 months~~ *20 working days* of the date of receipt of the report.

### **The Review Process**

14 If the Assessment Panel decides not to take any action on a complaint, then the Complainant has a right to request a review of that decision, and will be so advised when notified of the decision.

15 When a request for review is received, the relevant Democratic Services Officer will convene as soon as possible and in any event within 20 working days a meeting of a Review Panel.

16 The Review Panel will comprise an Independent Person who has had no previous involvement in the complaint, either in a consultative capacity to the Council or in an advisory capacity to the subject Member; the independent Chair of the Audit and Governance Committee; and a Member of the Audit and Governance Committee, to be nominated by the Chair. The Review Panel will be advised by the Deputy Monitoring Officer or a senior officer nominated by him/her.

1. In addition to the documents referred to in paragraph 9 above, the Review Panel will have a copy of the Assessment Panel's decision notice, but will consider the complaint afresh. The Review Panel has the same decisions available to it as the Assessment Panel and will follow the procedure outlined above in paragraphs 6-13.
2. Where on a request for review further information is made available in support of a complaint that changes its nature or gives rise to a potential new complaint, the Review Panel will consider if it is more appropriate to pass this to an Assessment Panel as a new complaint. In this instance, the Review Panel will make a formal decision that the review request will not be granted.

### **Withdrawing Complaints**

17 If a complainant asks to withdraw the complaint prior to the Assessment Panel having made a decision on it, the Assessment Panel will decide whether or not to grant the request. In making its decision, the Panel will consider:

- Whether the public interest in taking some action on the complaint outweighs the Complainant's wish to withdraw it
- Whether the complaint is such that action can be taken on it without the complainant's participation
- Whether there is an identifiable underlying reason for the request to withdraw the complaint, and in particular whether there is any evidence that the Complainant may have been pressured by the subject member or other person to withdraw the complaint

### **Confidentiality**

18 If a Complainant has asked for their identity to be withheld, this request will be considered by the Assessment Panel at the same time as it considers the complaint.

19 As a matter of fairness and natural justice, the subject member should usually be told who has complained about them. However, in exceptional circumstances, the Assessment Panel may grant confidentiality if it is satisfied that the Complainant has reasonable grounds for believing that they will be at risk of physical harm, or their employment will be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.

20 The Assessment Panel will also take into account whether it would be possible to refer the complaint without making the Complainant's identity known, and in particular whether the Complainant's participation would be required if the complaint were referred.

21 If the Assessment Panel decides to refuse a request from a Complainant for confidentiality, it may offer the Complainant the option to withdraw, rather than proceed with their identity being disclosed. The Assessment Panel will balance whether the public interest in taking action on a complaint may outweigh the complainant's wish to have their identity withheld from the subject member

**Procedure for Local Investigation and Determination of Allegations About Personal Conduct of Council Members**

**Introduction**

1. The investigation of allegations received by the Monitoring Officer concerning a breach of the Council's Code of Conduct, where an investigation has been completed by an Investigating Officer for the Council, will be governed by this procedure.
2. The person(s) making the complaint will be referred to in this procedure as the Complainant and the person against whom the complaint is made will be referred to as the Member. The allegation will be heard by the Hearings Panel, comprising the *independent Chair of the Audit & Governance Committee*, the Chief Executive and the Monitoring Officer, in consultation with one ~~or two~~ Independent Persons and, where the Member is a parish councillor, one of the Parish Representatives (the Panel).

**Pre-Investigative Process**

3. Appointment of Investigating Officer

Upon receipt an instruction from an Assessment Hearing or Review Hearing to arrange an investigation into a complaint, the Monitoring Officer will appoint an Investigating Officer in respect of the allegation and instruct him/her to conduct an investigation of the matter and to report thereon to the Monitoring Officer. The Investigating Officer may be an Officer of the Authority, an Officer of another Local Authority, or an external Investigating Officer.

The Investigating Officer may appoint persons to assist him/her in the conduct of his/her functions and may obtain such professional advice as may be necessary for the conduct of the investigation.

The Investigating Officer shall make every effort to complete the investigation within ~~two~~ *four* months of receipt of his/her instruction from the Monitoring Officer. Should this not be possible the Investigating Officer shall report before that time to the Monitoring Officer, explaining in broad terms the reasons for the delay. ~~The parties to this discussion will then mutually agree a further extension of time to complete the investigation. and giving a projected completion date.~~

4. Notification to the Member

The Monitoring Officer will notify in writing the Member against whom the allegation is made:

- ⇒ That the allegation has been referred to him for Investigation.
- ⇒ Of the identity of the Investigating Officer.
- ⇒ The nature of the complaint.
- ⇒ The relevant section of the Code of Conduct, which is alleged to have been contravened.
- ⇒ Unless the Complainant wishes to remain anonymous, the identity of the complainant.

#### 5. Notification to the Person who made the Allegation

The Monitoring Officer will notify in writing the person who made the allegation of the appointment of the Investigating Officer.

#### 6. Notification to Parish/Town Clerk

If the allegation is against a member of a Parish or Town Council the Monitoring Officer will notify in writing the Parish/Town Council Clerk of the appointment of the Investigating Officer.

### **Conduct of Investigation**

#### 7. Purpose of the Investigation

The purpose of the Investigating Officer's investigation is to enable him/her to prepare and present to the Monitoring Officer a report which would provide the Hearings Panel with sufficient information to determine whether the Member has acted in breach of the code, and where there has been a breach of the code, whether any action should be taken in respect of the Member or in consequence of the breach, and what any such action should be.

#### 8. Termination of the Investigation

The Investigating Officer may terminate his/her investigation at any point, where he/she is satisfied that he/she has sufficient information to enable him/her to report to the Monitoring Officer and to enable the Hearings Panel to come to a considered decision on the allegation.

## 9. Additional Matters

Where, in the course of his/her investigation, the Investigating Officer becomes aware of any additional matter which appears to him/her to indicate a breach of a code by the Member other than the breach which he/she is currently investigating, the Investigating Officer shall notify the Monitoring Officer.

Where the additional matter indicates a breach of the Members' Code of Conduct by a member of a Council the Monitoring Officer will determine whether to report the additional matter to an Assessment Hearing;

10. On commencing an Investigation the Investigating Officer will identify an initial list of persons to be interviewed, organisations from whom information is to be sought and documents to be inspected as part of the investigation. The Investigating Officer may supplement or amend this list at any stage of the investigation.

## 11. Confidentiality

In carrying out these duties, the Investigating Officer will not disclose the facts of this investigation or any information received except as may be necessary to carry out the investigation. The Investigating Officer shall also remind each interviewee of the need for confidentiality and ask them to respect the confidentiality of the investigation. The Investigating Officer shall also ensure that the Data Protection Act is complied with.

## 12. Production of documents, information and explanations

- ⇒ In the course of the investigation, the Investigating Officer may make such enquiries of any person or organisation, and request any person or organisation to provide any document or information which is in his/its possession or control which he/she thinks necessary for the purposes of carrying out the investigation.
- ⇒ In the course of the investigation, the Investigating Officer may require the Council or the Member to provide any document which is in his/its possession or control which he/she thinks necessary for the purposes of carrying out the investigation.

## 13. Interviews

- ⇒ **Requesting attendance**
- ⇒ In the course of the investigation the Investigating Officer may request any person to attend and appear before him or otherwise provide any

information, document or explanation of the purposes of the Investigation, as he/she thinks necessary for the purpose of carrying out the investigation.

⇒ **Representation**

⇒ Any person who appears before the Investigation Officer may arrange to be accompanied at their own expense by a solicitor or friend.

⇒ **Notes of interviews**

⇒ Where practicable, following the interview the Investigating Officer shall produce a written note of the material points of the interview, provide two copies of that note to the person interviewed and ask them to return one copy signed as a correct record of the interview, with such corrections or amendments as they may feel necessary for that purpose.

#### 14. Costs

The Investigating Officer may, where he/she considers that it is appropriate in order to facilitate the conduct of the investigation, arrange for the Council to pay to any person who provides any document, information, advice or explanation in response to his/her request, such fees or allowances as he/she considers to be appropriate subject to the maxima set out by the Council.

#### 15. The Draft Report

When the Investigating Officer is satisfied that he/she has sufficient information to satisfy the purpose of the investigation or has obtained as much information as is likely to be reasonably capable of being obtained, he/she shall consider whether to prepare a draft report setting out:

- ⇒ The details of the allegation;
- ⇒ The relevant provisions of the Code of Conduct;
- ⇒ The Member's initial response to notification of the allegation (if any);
- ⇒ The relevant information, advice and explanations which he/she has obtained in the course of the investigation;
- ⇒ A list of any documents relevant to the matter;
- ⇒ A list of those persons whom he/she has interviewed and those organisations from whom he/she has sought information;
- ⇒ A note of any person or organisation who has failed to co-operate with the investigation and the manner in which they have failed to co-operate;

- ⇒ A statement of his/her draft findings of fact;
- ⇒ His/her conclusion as to whether the Member has or has not failed to comply with the Code and
- ⇒ Any recommendations which the Investigating Officer is minded to make to any Council concerned for reviewing or reconsidering any decision which was the subject of the breach of the Code, for rectifying any deficiency in the Council's decision-making procedures or for preventing or deterring any breach of the Code or to remedy the position of any person who may have suffered detriment or injustice as a result of the breach. Where the allegation relates to a Parish Council member, such recommendations would be recommendations which the Investigating Officer would recommend that the Audit and Governance Committee make to the Parish Council.

When deciding whether to produce a draft report the Investigating Officer should ask:

- ⇒ Are the facts in the matter complex and ambiguous?
- ⇒ Are the facts of the case dubious?
- ⇒ Do the parties expect to receive a draft report?

The draft report should also state that the report does not necessarily represent the Investigating Officer's final finding, and that the Investigating Officer will present a final report to the Monitoring Officer once he/she has considered any comments received on the draft report.

The Investigating Officer shall then send a copy of his/her draft report in confidence to the member and the person making the allegation, and request that they send any comments thereon to him/her within 14 days.

The Investigating Officer may send a copy of, or relevant extracts from his/her draft report in confidence to any person on whose evidence he/she has relied in compiling the draft report and request that they send any comments thereon to him/her within 14 days.

## 16. The Final Report

If a draft report is produced, after the expiry of that period (or such extended period as the Investigating Officer may allow), the Investigating Officer shall reconsider and amend his/her draft report in the light of any comments received, and produce and send to the Monitoring Officer his final report. In any event, the final report should

state that the report represents the Investigating Officer's final findings and will be presented to the Hearings Panel, and should have appended to it copies of any documents which the Investigating Officer has relied on in reaching his/her conclusions, such as background documents of telephone conversations, letters and notes of interviews with witnesses.

The Monitoring Officer shall then send a copy of the final report to the Member, advising that:

- ⇒ Where the final report concludes that there has not been a failure to comply with the Code of Conduct for Members, he/she will refer the report to the Hearings Panel for their consideration, and
- ⇒ Where the final report concludes that there has been a failure by the Councillor to comply with the Code of Conduct for Members or with a local protocol, he/she will refer the report to the Hearings Panel for a formal hearing.

The final report shall be marked "final", be dated, cite any relevant legislation, summarise the allegation, the relevant section(s) of the Code of Conduct, set out the evidence, give reasoning and a finding of whether there has been a failure to comply with the Code of Conduct and that these are the Investigating Officer's final findings.

The Monitoring Officer shall ensure that, when the Investigating Officer's report is sent to the Hearings Panel, the report is also sent to:

- ⇒ The Member
- ⇒ The person who made the complaint;
- ⇒ The Clerk of any relevant Town or Parish Council

17. Where the Hearings Panel considers the report in accordance with the above it shall make one of the following findings:

- That it accepts the Investigating Officer's finding that the Member has not failed to comply with the Code of Conduct as set out in the allegation; or
- That the matter should be considered by the Hearings Panel.

18. Where the Hearings Panel finds as set out in Paragraph 17 above, the Monitoring Officer shall, as soon as practicable thereafter, send a written notice of that finding and the reasons on which it was based, together with a copy of the Investigating Officer's report to:

The Member;

The Monitoring Officer of any other Local Authority of which the Member is also a member

The Parish Council, if the Member was also a member of a Parish or Town Council, and

The person who made the allegation.

19. Where the Investigating Officer's report contains a finding that the Member did fail to comply with the Code of Conduct, the Monitoring Officer shall arrange for the matter to be considered by the Standards Committee, and the hearing shall be conducted no later than 3 months from the date on which the Monitoring Officer received the final report of the Investigating Officer.

20. Arrangements for the Hearing

The Monitoring Officer will:

- ⇒ Confirm a date, time and place for the hearing, which must be within three months from the issuing of the final report;
- ⇒ Confirm the main facts of the case that are agreed;
- ⇒ Confirm which witnesses will be called by the parties;
- ⇒ Provide copies of any written evidence to the relevant parties;
- ⇒ Provide the parties with a copy of the proposed procedure for the hearing, *and the composition of the hearings panel*, specifying which parts of the matter, if any, may be considered in private; and
- ⇒ Ensure the appropriate information is provided to everyone involved in the hearing at least 14 days before the proposed date of the hearing.

21. The Hearing

The Panel shall decide, on a balance of probabilities, whether the complaint(s) is or are upheld upon the evidence presented to it. The Hearing will be conducted in private.

## 22. Procedure at the Hearing

The purpose of the hearing is to determine the facts at issue and what action, if any, should be taken. An inquisitorial approach will be adopted by the Panel in seeking information and clarifying facts and issues. The Chairman will control the procedure and evidence presented at the hearing, including the questioning of witnesses.

During the course of a hearing the Hearings Panel may decide that it needs additional information in order to reach a decision. However, it shall only make this request once per case.

The procedure will be as follows, subject to the Chairman being able to make changes as he or she thinks fit in order to ensure a fair and efficient hearing.

## 23. Presentation by the Investigating Officer

The Investigating Officer will present the evidence which is relevant to the matter. The Investigating Officer may introduce any witness required to substantiate any matter contained in the report which has been disputed and present any other relevant evidence.

The Member or his/her representative may ask questions of the Investigating Officer or any witness.

The Panel, Independent Person(s) and, where applicable, parish representative, may ask questions of the Investigating Officer or any witness.

## 24. Presentation by the Member

The member or his/her representative will present the evidence which is relevant to the matter. The Member or his/her representative may introduce witnesses or present any other relevant evidence.

The Investigating Officer may ask questions of the Member, or any witness.

The Panel, Independent Person(s) and, where applicable, parish representative, may ask questions of the member or any witness.

The Investigating Officer and then the Member or his/her representative will be given the opportunity to sum up.

## 25. Decision by the Panel

The Panel will consider in private all the evidence which it heard in order to establish its findings of fact;

At any stage in the consideration of the matter the Panel may return to ask further questions of the Investigating Officer or the Member or seek further information. The other party will be given an opportunity to comment upon the questions asked or the responses made.

At the conclusion of their deliberations the Chairman will advise the member and the Investigating Officer of the findings and whether the Code of Conduct has been breached.

If the Panel concludes that the member has acted in breach of the Code representations will be invited from the Investigating Officer and the Member as to what action, if any, it should take. The Panel may ask questions of the Member and the Investigating Officer.

## 26. The Panel, having heard any representations will consider what actions, if any to take.

The findings that the Panel may make are:

- ⇒ That there has been no breach of the code;
- ⇒ That the Member has failed to comply with the Code of Conduct, but that no action needs to be taken;
- ⇒ That the Member has failed to comply with the Code of Conduct and that one of the sanctions agreed by the Council should be imposed.

The Chairman will announce the decision of the Panel, the action, if any, it is proposed to take and the reasons for the decision.

The Panel will then consider in open session whether there are any recommendations which should be made by any Authority concerned arising from the consideration of the allegation.

## Hearing Procedure

1. The Chairman introduces the parties.
2. The Chairman explains the procedure.

3. Any procedural issues are determined.
4. The Investigating Officer presents his report – he may call witnesses.  
The Member may ask questions.  
The Panel, Independent Person(s) and, where applicable, parish representative, may ask questions
5. The Member presents his case – he may call witnesses.  
The Investigating Officer may ask questions.  
The Panel, Independent Person(s) and, where applicable, parish representative, may ask questions.
6. The Investigating Officer and the Member sum up their cases.
7. The Panel decides upon the disputed facts.
8. The Panel announces its findings of fact and its determination upon the breach of the Code of Conduct.
9. If appropriate the Panel invites submissions as to any penalty and the Panel , Independent Person(s) and, where applicable, parish representative, may ask any questions of the parties.
10. The Panel decides upon the sanction.
11. The Chairman announces the decision of the Panel upon the penalty and states that the decision will be confirmed in writing and sent to the parties as soon as is practicable.

### **Post Hearing**

The Monitoring Officer prepares the decision letter which is passed to the Chairman of the Panel for approval. The draft is dispatched within five working days of the hearing. The comments of the members are made within five working days of receipt.

The Monitoring Officer prepares any revised draft and submits it to the Chairman for signature.

The signed decision is dispatched to the parties within fifteen working days.