

SOUTH RIBBLE BOROUGH COUNCIL

COMPLAINTS AGAINST MEMBERS

HEARINGS PROCEDURE

Stage 1: Setting the scene

1. Any hearing will either be before the full Standards Committee or a duly appointed Hearing Panel. Any reference to “Panel” in this procedure also refers to the Committee if the full Committee is sitting.
2. After everyone involved has been formally introduced, the Chair will explain how the Panel is going to run the hearing.
3. The Chair will introduce the Independent Person(s) and explain that whilst they do not have a decision making role they are present to provide an independent view which the Panel are obliged to consider.
4. The Subject Member may be represented or accompanied at the meeting by a solicitor or barrister, or with the permission of the Panel, another person.
5. The Chair will ensure that the Subject Member (the member the subject of the complaint) is ready and happy to proceed. If the Subject Member indicates that they are not ready, they must give reasons why. The Committee will decide whether the hearing should proceed and must act reasonably in coming to that decision.
6. If the Subject Member is not present at the start of the hearing:
 - The Chairman should ask the Monitoring Officer whether the Subject Member has indicated his/her intention not to attend the Hearing
 - The Panel should then consider any reasons which the Subject Member has provided for not attending the Hearing and should decide whether it is satisfied that there is sufficient reason for such failure to attend
 - If the Panel is satisfied with such reasons, it should adjourn the Hearing to another date
 - If the Panel is not satisfied with such reasons, or if the Subject Member has not given any such reasons, the Hearings Panel should decide whether to consider the matter and make a determination in the absence of the Subject Member, or to adjourn the Hearing to another date.
7. With the permission of the Panel witnesses may give evidence either on behalf of the Investigator or on behalf of the Subject Member.

Stage 2: Making findings of fact

8. The Panel will ask the Subject Member whether there are any significant disagreements about the facts contained in the Investigating Officer’s report. If there is no disagreement about the facts, the Panel can move on to Stage 3.
9. If the Subject Member disagrees with any relevant fact in the Investigating Officer’s report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. A Subject Member would be expected to give at least 7 days’ notice to the Monitoring Officer of any such disagreement with any relevant fact.

10. After considering the Subject Member's explanation for not raising the issue at an earlier stage, the Panel may then
 - continue with the hearing, relying on the information in the Investigating Officer's report
 - allow the Subject Member to make representations about the issue, and invite the Investigating Officer to respond
 - postpone the hearing to allow the Investigating Officer to consider and investigate the new issue.
11. Where prior notice of any disagreement has been given the Investigating Officer, will be invited to make representations on the challenged facts.
12. The Subject Member will then have the opportunity to make appropriate representations.
13. At any time, the Panel may question the Investigating Officer or the Subject Member.
14. The Panel will usually move to another room to consider the representations and evidence in private. Also present will be the Monitoring Officer, the Independent Person and a Democratic Services Officer. On their return, the Chair will announce the Panel's findings of fact.

Stage 3: Did the Subject member fail to follow the Code of Conduct?

15. Having made the finding on the facts the Panel will then consider whether the Subject Member has failed to follow the Code.
16. The Subject Member should be invited to give relevant reasons why the Panel should decide that they have not failed to follow the Code.
17. The Panel should then consider any verbal or written representations from the Investigating Officer.
18. The Panel may, at any time, question anyone involved on any point they raise on their representations.
19. The Subject Member should be invited to make any final relevant points.
20. The Panel will then move to another room to consider the representations. The Monitoring Officer, the Independent Person and a Democratic Services Officer will accompany them. The views of the Independent Person should be sought and considered by the Panel. Where the Panel depart from the view of the Independent Person they should record the reasons why.
21. On their return, the Chair will announce the Panel's decision as to whether the Subject Member has failed to follow the Code.
22. If the Panel decides that the Subject Member has not failed to follow the Code, the Panel will inform the Subject Member accordingly.
23. If the Panel decides that the Subject Member has failed to follow the Code, it will consider any verbal or written representations from the Investigating Officer and the Subject Member as to:
 - whether the Panel should apply a sanction
 - what form any sanction should take

24. The Panel may question the Investigating Officer and Subject Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.
25. The Panel will then retire with the Monitoring Officer, the Independent Person and a Democratic Services Officer. They will consider whether to impose a sanction on the Member and, if so, what sanction it should be. The Independent Person will not be able to participate in making the decision (i.e. vote) but their views must be considered by the Committee. Where the Committee depart from the Independent Person's views they must record reasons why.
26. The Panel will be limited to the sanctions listed in the procedure for the administration of complaints. The Panel must ensure that any sanction is reasonable and proportionate to the breach.
27. On their return, the Chair will announce the Panel's decision.