



Leicester  
City Council

**MEETING OF THE STANDARDS HEARING SUB-COMMITTEE**

**DATE: THURSDAY, 21 JUNE 2012**  
**TIME: 9:30 am**  
**PLACE: THE COUNCIL CHAMBER - FIRST FLOOR, TOWN HALL,  
TOWN HALL SQUARE, LEICESTER**

**Members of the Sub-Committee**

Mr Jonathan Goolden, Independent Member (Chair)

Councillors Naylor and Porter

Members of the Sub-Committee are invited to attend the above meeting to consider the items of business listed overleaf.

*Elaine Baker*

for Monitoring Officer

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## **AGENDA**

### **1. APOLOGIES FOR ABSENCE**

### **2. DECLARATIONS OF INTEREST**

Members are asked to declare any interests they may have in the business on the agenda, and/or indicate that Section 106 of the Local Government Finance Act 1992 applies to them.

### **3. HEARING PROCEDURE**

**Appendix A**

The City Barrister and Head of Standards submits the procedure to be followed during hearings of an investigator's report regarding complaints against Councillors. The Sub-Committee is asked to note the procedure.

### **4. ANY OTHER ITEMS OF URGENT BUSINESS**

### **5. PRIVATE SESSION**

## **AGENDA**

### **MEMBERS OF THE PUBLIC TO NOTE**

**Under the law, the Sub-Committee is entitled to consider certain items in private. Members of the public will be asked to leave the meeting when such items are discussed.**

The Sub-Committee is recommended to consider the following reports in private on the grounds that they contain 'exempt' information as defined by the Local Government (Access to Information) Act 1985, and consequently that the Sub-Committee makes the following resolution:-

"that the press and public be excluded during consideration of the following report in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because it involves the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act and, taking all the circumstances into account, it is considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information"

#### **Paragraph 1**

Information relating to any individual

#### **Paragraph 7c**

The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the

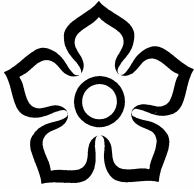
provisions of section 60(2) or (3), 64(2), 70(4) or (5)

**6. HEARING OF INVESTIGATOR'S REPORT INTO A  
COMPLAINT AGAINST COUNCILLORS, COMPLAINT  
NUMBER 2011/12**

**Appendix B**

The City Barrister and Head of Standards submits a report

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## **LECESTER CITY COUNCIL STANDARDS COMMITTEE**

### **STANDARDS HEARING SUB-COMMITTEE HEARING PROCEDURE**

#### **Interpretation**

1. 'Member' means the member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the member's nominated representative.
2. 'Investigator' means the Monitoring Officer, an external investigator appointed by the Monitoring Officer or Ethical Standards Officer and includes his or her nominated representative.
3. 'Committee' refers to the Standards Sub-Committee.
4. 'Legal adviser' means the officer responsible for providing legal advice to the Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

#### **Representation**

5. The member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the committee, another person.

#### **Legal advice**

6. The committee may take legal advice from its legal adviser at any time during the hearing or while they are considering the outcome. The member and the investigator if they are present should be advised of the substance of any legal advice given by the legal adviser in the absence of the parties.

#### **Setting the scene**

7. After all the members and everyone involved have been formally introduced, the Chair should explain how the committee is going to run the hearing.

## **Preliminary procedural issues**

8. The Committee should consider whether any part of the hearing should be held in private and whether the investigator's report should remain exempt on the grounds that it contains exempt information as set out in law.
9. The committee should resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the prehearing process.

## **Making findings of fact**

10. After dealing with any preliminary issues, the committee should move on to consider whether or not there are any significant disagreements about the facts contained in the investigator's report.
11. If there is no disagreement about the facts, the committee can move on to the next stage of the hearing.
12. If there is a disagreement, the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the committee's permission, the investigator may call any necessary supporting witnesses to give evidence. The committee may give the member an opportunity to challenge any evidence put forward by any witness called by the investigator.
13. The member should then have the opportunity to make representations to support his or her version of the facts and, with the committee's permission, to call any necessary witnesses to give evidence.
14. At any time, the 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.
15. If the member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the investigator is not present, the committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the member's explanation for not raising the issue at an earlier stage, the committee may then:
  - (a) Continue with the hearing, relying on the information in the investigator's report;
  - (b) allow the member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary; or
  - (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.

16. The parties will leave the room to allow the committee to consider the representations and evidence in private.
17. On their return, the Chair will announce the Committee's findings of fact.

**Did the member fail to follow the code?**

18. The committee needs to consider whether or not, based on the facts it has found, the member has failed to follow the Code of Conduct.
19. The member should be invited to give relevant reasons why the committee should not decide that he or she has failed to follow the Code.
20. The committee should then consider any verbal or written representations from the investigator.
21. The committee may, at any time, question anyone involved on any point they raise in their representations.
22. The member should be invited to make any final relevant points.
23. The committee will then ask the parties to leave the room to allow them to consider the representations.
24. On their return, the Chair will announce the committee's decision as to whether or not the member has failed to follow the Code of Conduct.

**If the member has not failed to follow the Code of Conduct**

25. If the committee decides that the member has not failed to follow the Code of Conduct, the committee can move on to consider whether it should make any recommendations to the authority.

**If the member has failed to follow the Code**

26. If the committee decides that the member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the investigator and the member as to:
  - (a) whether or not the committee should apply a sanction; and
  - (b) what form any sanction should take.

A sanction may include any one or a combination of the following:

- (a) censure of the member;
- (b) restriction of the member's access to the premises of the authority or their use of the resources of the authority for up to 6 months, provided that such restriction does not unnecessarily restrict the member's ability to carry out his or her functions as a member and the restrictions are reasonable and proportionate to the nature of the breach;

- (c) suspension or partial suspension of the member for up to 6 months;
  - (d) that the member submits a written apology in a form specified by the committee;
  - (e) that the member undertakes such training as the committee specifies;
  - (f) that the member participates in such conciliation as the committee specifies;
  - (g) suspension or partial suspension of the member for up to 6 months, or until such time as they have submitted a written apology in a form specified by the committee or they have undertaken such training or taken part in such conciliation as specified by the committee.
27. The committee may question the investigator and member, and take legal advice, to make sure they have the information they need in order to make an informed decision.
28. The committee will then ask the parties to leave the room to allow them to consider whether or not to impose a sanction on the member and, if so, what the sanction should be.
29. On their return, the Chair will announce the committee's decision.

### **Recommendations to the authority**

30. After considering any verbal or written representations from the investigator, the committee will consider whether or not it should make any recommendations to the authority, with a view to promoting high standards of conduct among members.

### **The written decision**

31. The committee will announce its decision on the day and provide a short written decision within one working day. It will issue a full written decision normally within 2 weeks. A copy of both decisions will be circulated to the Member and the full Standards Committee.