

Isle of Anglesey County Council

Standards Committee

Procedure for Local Standards Hearings

1 Introduction

This procedure sets out how the County Council will determine complaints of member misconduct

2 Interpretation

- (a) "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.
- (b) "Investigating Officer" means the Public Services Ombudsman for Wales (PSOW), and includes his or her nominated representative. In the case of matters that have been referred for local investigation, references to the Investigating Officer mean the person appointed by the Monitoring Officer to undertake that investigation.
- (c) "The Matter" is the subject matter of the Investigating Officer's report.
- (ch) "The Standards Committee" refers to the Standards Committee or to any Standards Sub-Committee to which it has delegated the conduct of the hearing.
- (d) "The Committee Support Officer" means an officer of the authority responsible for supporting the Standards Committee's discharge of its functions and recording the decisions of the Standards Committee.
- (dd) "The Legal Adviser" means the officer responsible for providing legal advice to the Standards Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.
- (e) "The Chairman" refers to the person presiding at the hearing
- (f) "The Complainant" means the person or persons who made the original allegation which has been investigated.

3 Modification of Procedure

The Chairman may agree to vary this procedure in any particular instance where he/she is of the opinion that such a variation is necessary in the interests of fairness.

4 Representation

The Member may be represented or accompanied at any stage of this procedure by a solicitor, counsel or, with the permission of the Standards Committee, by another person. Note that the cost of such representation must be met by the member, unless the Standards Committee has expressly agreed to meet all or any part of that cost.

5 Decision to conduct a local hearing

- (a) Upon receipt of the PSOW's report, or the report of an Investigating Officer, the Monitoring Officer shall refer that report to the Standards Committee, which shall resolve either –
 - (i) That there is no evidence of a failure by the Member to comply with the Code of Conduct, or
 - (ii) That the matter should go for a local hearing.
- (b) Where the Standards Committee resolve that there is no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer shall notify the Member and the Complainant accordingly.
- (c) Where the Standards Committee resolve that the matter shall go to a local hearing, the Monitoring Officer shall conduct the pre-hearing process as set out below.

6 Pre-Hearing Procedure

Following a resolution of the Standards Committee to conduct a local hearing on a matter, the Monitoring Officer shall:

- (a) Arrange a date for the Standards Committee's hearing as determined by the Chairman;
- (b) Send a copy of the report to the Member and advise him of the date, time and place for the hearing;
- (c) Send a copy of the report to the Complainant and advise him of the date, time and place for the hearing;
- (ch) Notify the Community Council of the matter and of the date, time and place of the hearing (where the matter relates to the conduct of a Community Councillor);
- (d) Notify the Investigation Officer of the date, time and place of the hearing;
- (dd) Request the Member to complete and return the Pre-Hearing Forms appended to this Procedure within 14 days of receipt;
- (e) In the light of any Pre-Hearing Forms returned by the Member, determine whether the Standards Committee will require the attendance of the Investigating Officer and any additional witnesses¹, including the

¹ Where the Member has indicated that he disputes any finding of fact in the Investigating Officer's report, the Standards Committee will need to hear evidence on the disputed point from a first hand witness, wherever possible.

Complainant, at the hearing to enable it to come to a properly considered conclusion at the hearing, and arrange for their attendance;

- (f) Request the Chairman to make such Directions as to the conduct of the hearing as may be necessary for the effective conduct of the hearing, which Directions may address such issues as –
 - (i) The time that the Standards Committee will sit to conduct the hearing;
 - (ii) Any matters which are to be taken as read and on which evidence is not required;
 - (iii) The witnesses to be heard and the times at which they should be present; and
 - (iv) The presence of witnesses when not giving evidence.
- (ff) Prepare a Pre-Hearing Summary Report setting out the course of the allegation, investigation and Pre-Hearing Process and high-lighting the issues which the Standards Committee will need to address, and
- (g) Arrange with the Committee Support Officer that the agenda for the hearing, together with the Monitoring Officer's Pre-Hearing Summary Report, the Investigating Officer's report and any other relevant documents are sent to:
 - (i) All members of the Standards Committee who will conduct the hearing;
 - (ii) The Member;
 - (iii) The person who made the allegation, and
 - (iv) The Investigating Officer.

7 Legal Advice

The Standards Committee may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Standards Committee should be shared with the member and the Investigating Officer if they are present.

8 Setting the Scene

At the start of the hearing, the Chairman shall introduce each of the members of the Standards Committee, the member (if present), the Investigating Officer (if present) and any other officers present, and shall then explain the procedure which the Standards Committee will follow in the conduct of the hearing.

9 Preliminary procedural issues

The Standards Committee shall then deal with the following preliminary procedural matters in the following order:

- (a) Apologies for absence

(b) Disclosures of interest

The Chairman shall ask members of the Standards Committee to disclose the existence and nature of any personal or prejudicial interests which they have in the matter, and to withdraw from consideration of the matter if so required.

(c) Quorum

The Chairman shall confirm that the Standards Committee is quorate²

(ch) Hearing procedure

The Chairman shall confirm that all present know the procedure which the Standards Committee will follow in determining the matter.

(d) Proceeding in the absence of the member

If the Member is not present at the start of the hearing:

- (i) the Chairman shall ask the Monitoring Officer whether the Member has indicated his/her intention not to attend the hearing;
- (ii) the Standards Committee shall then consider any reasons which the Member has provided for not attending the hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend;
- (iii) if the Standards Committee is satisfied with such reasons, it shall adjourn the hearing to another date;
- (iv) if the Standards Committee is not satisfied with such reasons, or if the Member has not given any such reasons, the Standards Committee shall decide whether to consider the matter and make a determination in the absence of the Member or to adjourn the hearing to another date.

(dd) Exclusion of Press and Public

The Standards Committee may exclude the press and public from all or part of its consideration of the matter where it appears likely that confidential or exempt information will be disclosed in the course of its consideration.

The Chairman shall ask the Member, the Investigating Officer and the Legal Adviser to the Standards Committee whether they wish to ask the Standards Committee to exclude the press and public from all or any part of the hearing. If any of them so request, the Chairman shall ask them to put forward reasons for so doing and ask for responses from the others, and the Standards

² A meeting of the Standards Committee is not quorate unless at least three members of the Standards Committee are present for the duration of the meeting. The Chairman must be an Independent member, and at least half of the members of the Committee present must be Independent members. Where the Committee is considering a matter relating to the conduct of a member of a Community Council, at least one member of the Committee must be a Community Council representative, but the Committee is not inquorate by reason of the absence of the Community Council representative.

Committee shall then determine whether to exclude the press and public from all or any part of the hearing.

Where the Standards 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 then be made available to the press and public.

10 A failure to comply with the Code of Conduct?

The Standards Committee will then address the issue of whether the Member failed to comply with the Code of Conduct in the manner set out in the Investigating Officer's report.³

(a) The Pre-Hearing Process Summary

The Chairman will ask the Legal Adviser or the Committee Support Officer to present the Monitoring Officer's Pre-Hearing Summary Report, highlighting any points of difference in respect of which the Member has stated that he/she disagrees with any finding of fact in the Investigating Officer's report. The Chairman will then ask the Member to confirm that this is an accurate summary of the issues, to confirm that he/she maintains the position as set out in the pre-hearing summary, and ask the Member to identify any additional points upon which he/she disagrees with any finding of fact in the Investigating Officer's report.

- (i) If the Member admits that he/she has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report, the Standards Committee may then take the Investigating Officer's report as read and make a determination that the Member has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report and proceed directly to consider whether any action should be taken in respect of the Member's misconduct.
- (ii) If the Member identifies additional points of difference, the Chairman shall ask the Member to explain why he/she did not identify these points as part of the pre-hearing process. He/she shall then ask the Investigating Officer (if present) whether he/she is in a position to deal with those additional points of difference directly or through any witnesses who are in attendance or whose attendance at the hearing can conveniently be arranged. Where

³ Note that the Standards Committee's consideration is limited to the matter, in terms of the set of facts, as set out in the Investigating Officer's report. The Standards Committee may find that these facts disclose a breach of a part of the Code of Conduct other than that found by the Investigating Officer (for example that the facts constituted bullying rather than just a failure to treat with respect). However, if, in the course of their consideration, the Standards Committee apprehend that the evidence before them reveals an entirely different failure to comply with the Code of Conduct (for example where the complaint is of failure to treat Officer A with respect, but the evidence also indicates a failure to treat Officer B with respect), such a possible additional or alternative failure will not be within the remit of the Standards Committee. At that stage, the member will not have had notice of the Standards Committee's consideration of the possible additional or alternative failure and that it would therefore be unfair to proceed to consider that second matter at the hearing into the first alleged failure. Where the Standards Committee do apprehend a possible additional or alternative failure, a failure by a different member, or a failure in respect of the code of conduct of another authority, they should refer the second matter to the PSOW as a new allegation.

the Standards Committee is not satisfied with the Member's reasons for failing to identify each additional point of difference as part of the pre-hearing process, it may decide that it will continue the hearing but without allowing the Member to challenge the veracity of those findings of fact which are set out in the Investigating Officer's report but in respect of which the Member did not identify a point of difference as part of the pre-hearing process, or it may decide to adjourn the hearing to allow the Investigating Officer and/or any additional witnesses to attend the hearing.

- (b) Presenting the Investigating Officer's report
 - (i) If the Investigating Officer is present, the Chairman will then ask the Investigating Officer to present his/her report, having particular regard to any points of difference identified by the Member and why he/she concluded, on the basis of his/her findings of fact, that the Member had failed to comply with the Code of Conduct. The Investigating Officer may call witnesses as necessary to address any points of difference.
 - (ii) If the Investigating Officer is not present, the Standards Committee shall only conduct a hearing if they are satisfied that there are no substantial points of difference or that any points of difference can be satisfactorily resolved in the absence of the Investigating Officer. In the absence of the Investigating Officer, the Standards Committee shall determine on the advice of the Monitoring Officer which witnesses, if any, to call. Where such witnesses are called, the Chairman shall draw the witnesses' attention to any relevant section of the Investigating Officer's report and ask the witness to confirm or correct the report and to provide any relevant evidence.
 - (iii) No cross-examination shall be permitted but, at the conclusion of the Investigating Officer's report and/or of the evidence of each witness, the Chairman shall ask the Member if there are any matters upon which the Standards Committee should seek the representations of the Investigating Officer or the witness, and then the members of the Standards Committee may address questions to the Investigating Officer or the witness.
- (c) The Member's response
 - (i) The Chairman shall then invite the Member to respond to the Investigating Officer's report and to call any witnesses as necessary to address any points of difference.
 - (A) The Member may arrange for his representative to make submission on his behalf, and/or to introduce the Member and any witnesses on his behalf;
 - (B) The Member does not have to give evidence or to answer any questions, but the Standards Committee may draw reasonable conclusions from any failure on his part to give evidence or to answer any question.
 - (ii) No cross-examination shall be permitted but, at the conclusion of the Member's evidence and/or of the evidence of each witness, the Chairman shall ask the Investigating Officer if there are any matters upon which the Standards Committee should seek the representations of the Member or

the witness, and then the members of the Standards Committee may address questions to the Member or the witness.

(ch) Witnesses

The Standards Committee shall be entitled to refuse to hear evidence from the Investigating Officer, the Member or a witness unless they are satisfied that the witness is likely to give evidence which they need to hear in order to be able to determine whether there has been a failure to comply with the code of conduct.

(d) Additional Evidence

(i) At the conclusion of the evidence, the Chairman shall check with the members of the Standards Committee that they are satisfied that they have sufficient evidence to come to a considered conclusion on the matter.

(ii) If the Standards Committee at any stage prior to determining whether there was a failure to comply with the Code of Conduct are of the opinion that they require additional evidence on any point in order to be able to come to a considered conclusion on the matter, the Standards Committee may (on not more than one occasion) adjourn the hearing and make a request to the Investigating Officer to seek and provide such additional evidence and to undertake further investigation on any point specified by the Standards Committee.

(dd) The Member and the Investigating Officer will be given an opportunity to make closing representations.

(e) Determination as to whether there was a failure to comply with the Code of Conduct.

(i) Unless the determination merely confirms the Member's admission of a failure to comply with the Code of Conduct (as set out in Paragraph 10(a)(i) above), the Standards Committee shall retire to another room to consider in private whether the Member did fail to comply with the Code of Conduct as set out in the Investigating Officer's report.

(ii) The Standards Committee shall take its decision on the balance of probability based on the evidence which it has received at the hearing.

(iii) The Standards Committee's function is to make a determination on the matter. It may, at any time, return to the main hearing room in order to seek additional evidence from the Investigating Officer, the Member or a witness. If it requires any further information, it may adjourn and instruct an officer or request the Member to produce such further evidence to the Standards Committee.

(iv) If the Standards Committee requires legal advice on any point, it may either –

- (A) Request the Legal Adviser to join the Committee and provide such advice, in which case the Legal Adviser shall repeat such advice in open court when the Standards Committee returns, and the Member's legal representative may respond to such advice; or
- (B) Return to open court and request the Legal Adviser to give advice, inviting the Member's legal representative to respond to any such advice.
- (v) At the conclusion of the Standards Committee's consideration, the Standards Committee shall consider whether it is minded to make any recommendations to the authority with a view to promoting high standards of conduct among Members.
- (vi) The Standards Committee shall then return to the main hearing room and the Chairman will state the Standards Committee's principal findings of fact and their determination as to whether the Member failed to comply with the Code of Conduct as set out in the Investigating Officer's report.

11 If the Member has not failed to follow the Code of Conduct

If the Standards Committee determines that the Member has not failed to follow the Code of Conduct in the manner set out in the Investigating Officer's report:

- (a) The Chairman should summarise the Standards Committee's findings;
- (b) If the Standards Committee apprehends, from the evidence which they have received during the hearing, that a Member has failed to comply with the Code of Conduct (other than the matter which the Standards Committee has just determined), the Chairman shall outline the Standards Committee's concerns and state that the Standards Committee has referred this additional or alternative failure to the Monitoring Officer with a view to a further allegation being made to the PSOW.
- (c) The Chairman should then set out any recommendations which the Standards Committee is minded to make to the authority with a view to promoting high standards of conduct among Members and seek the views of the Member, the Investigating Officer and the legal advisor before the Standards Committee finalises any such recommendations.
- (ch) Finally, the Chairman should ask the Member whether he/she wishes the authority not to publish a statement of its finding in a local newspaper.

12 Action consequent upon a failure to comply with the Code of Conduct

If the Standards Committee determines that the Member has failed to follow the Code of Conduct in the manner set out in the Investigating Officer's report:

- (a) The Chairman shall summarise the Standards Committee's findings;
- (b) The Chairman may then indicate the order of sanction which he considers may be appropriate and ask the Member or his legal representative to make

representations on sanction.⁴

- (c) The Chairman may then ask the Investigating Officer to make representations as to sanction.
- (ch) The Chairman will then ensure that each member of the Standards Committee is satisfied that he/she has sufficient information to enable him/her to take an informed decision as to whether to impose a sanction and (if appropriate) as to the form of the sanction.
- (d) Any member of the Standards Committee may address questions to the Investigating Officer or to the Member as necessary to enable him/her to take such an informed decision.
- (dd) The Standards Committee shall then retire to another room to consider in private whether to impose a sanction, (where a sanction is to be imposed) what sanction to impose and when that sanction should take effect, and any recommendations which the Standards Committee will make to the authority.
- (e) At the completion of their consideration, the Standards Committee shall return to the main hearing room and the Chairman shall state the Standards Committee's decisions as to whether to impose a sanction and (where a sanction is to be imposed) the nature of that sanction, and when it should take effect, together with the principal reasons for those decisions, and any recommendations which the Standards Committee will make to the authority.

13 The close of the hearing

- (a) The Standards Committee will announce its decision on the day of the hearing and provide the Committee Support Officer with a short written statement of their decision, which the Committee Support Officer will deliver to the Member as soon as practicable after the close of the hearing;
- (b) The Chairman will thank all those present who have contributed to the conduct of the hearing and formally close the hearing;
- (c) Following the close of the hearing, the Committee Support Officer will agree a formal written notice of the Standards Committee's determination and the Monitoring Officer shall arrange for the distribution and publication of that notice (or a summary of that notice, where required).

⁴ The decisions as to sanctions which are available to the Standards Committee are any of the following :
“(i) that no action is required
(ii) to censure the Member;
(iii) partial suspension of the Member for a period up to a maximum of six months;
(iv) suspension of the Member for a period up to a maximum of six months.

Suspension and partial suspension only relate to the Member in his capacity as a member of the authority to which the complaint related.

Any sanction imposed shall commence immediately unless the Standards Committee direct (for any sanction other than censure) that it shall commence on any date specified by the Standards Committee within six months of the date of the hearing.

14 Appeals.

The Member may appeal against the decision of the Standards Committee by writing to the President of the Adjudication Panel for Wales, ensuring that his letter sets out the grounds for such an appeal, includes a statement as to whether or not he consents to the appeal being heard by way of written representations, and is received by the President within 21 days of the date of the written notice of decision.

Details of case and reference number

FORM A

Subject member's response to the evidence set out in the investigation report

Please enter the number of any paragraph in the investigation report where you disagree with the findings of fact, and give your reasons and your suggested alternative.

Paragraph number from the investigation report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read

Details of case and reference number

FORM B

Other evidence relevant to the complaint

Please set out below, using the numbered paragraphs, any evidence you feel is relevant to the complaint made about you.

Paragraph number	Details of the evidence
1	
2	
3	

Details of case and reference number

FORM C

Representations to be taken into account if a member is found to have failed to follow the Code of Conduct

Only complete this form if you agree with the findings in the investigation report that you failed to comply with the Code of Conduct

Please set out below, using the numbered paragraphs, any factors that the standards committee should take into account if it finds that you failed to follow the Code of Conduct. Please note that no such finding has been made yet.

Paragraph number	Factors for the standards committee to take into account when deciding whether to sanction any censure, restriction of resources or allowances, suspension or partial suspension
1	
2	
3	

Details of case and reference number

FORM D

Arrangements for the standards committee hearing

Please tick the relevant boxes.

1	Are you planning to attend the standards committee hearing on the proposed date in the accompanying letter? If 'No', please explain why.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Reason:
2	Are you going to present your own case?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
3	If you are not presenting your own case, will a representative present it for you? If 'Yes', please state the name of your representative.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Name:
4	Is your representative a practising solicitor or barrister? If 'Yes', please give their legal qualifications. Then go to Question 6 . If 'No' please go to Question 5 .	Yes <input type="checkbox"/> No <input type="checkbox"/>	Qualifications:

<p>5</p>	<p>Does your representative have any connection with your case?</p> <p>If 'Yes', please give details.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Details:</p>
<p>6</p>	<p>Are you going to call any witnesses?</p> <p>If 'Yes', please fill in Form E.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	
<p>7</p>	<p>Do you, your representative or your witnesses have any access difficulties or any other needs? (e.g. is wheelchair access needed?)</p> <p>If 'Yes', please give details.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Details:</p>
<p>8</p>	<p>Do you, your representative or witnesses need an interpreter?</p> <p>If 'Yes' please give details</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Details:</p>
<p>9</p>	<p>Do you want any part of the hearing to be held in private?</p> <p>If 'Yes', please give reasons.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Reasons:</p>
<p>10</p>	<p>Do you want any part of the relevant documents to be withheld from public inspection?</p> <p>If 'Yes', please give reasons.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Reasons:</p>

Details of case and reference number

FORM E

Details of witnesses you propose to call:

Name of witness or witnesses	1 2 3		
Witness 1			
a	<p>Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:
b	<p>Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence:

Witness 2

a	Will the witness give evidence about the allegation? If 'Yes', please provide an outline of the evidence the witness will give.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Outline of evidence:
b	Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed? If 'Yes', please provide an outline of the evidence the witness will give.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Outline of evidence:

Witness 3

a	Will the witness give evidence about the allegation? If 'Yes', please provide an outline of the evidence the witness will give.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Outline of evidence:
b	Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed? If 'Yes', please provide an outline of the evidence the witness will give.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Outline of evidence: