

## **HEARING PROCEDURES FOR THE HEARINGS SUB-COMMITTEE**

### **Representation**

1. The Subject Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Sub-Committee, another person.

### **Legal advice**

2. The Sub-Committee may take legal advice from its legal advisor at any time during the hearing or while it is considering the outcome. The substance of any legal advice given to the committee should be shared with the Subject Member and the investigator if they are present.

### **Setting the scene**

3. After all the Members and everyone involved have been formally introduced, the Chairman should explain how the Sub-Committee is going to run the hearing.

### **Preliminary procedural issues**

4. The Sub-Committee should then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

### **Making findings of fact**

5. After dealing with any preliminary issues, the Sub-Committee should then move on to consider whether or not there are any significant disagreements about the facts contained in the investigator's report.
6. If there is no disagreement about the facts, the Sub-Committee can move on to the next stage of the hearing.
7. 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 Sub-Committee's permission, the investigator may call any necessary supporting witnesses to give evidence. The Sub-Committee may give the Subject Member an opportunity to challenge any evidence put forward by any witness called by the investigator.
8. The Subject Member should then have the opportunity to make representations to support his or her version of the facts and, with the Sub-Committee's permission, to call any necessary witnesses to give evidence.
9. 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 Subject Member.

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10. If the Subject Member disagrees with most of the facts, it may make sense for the investigator to start by making representations on all the relevant facts, instead of discussing each fact individually.
11. If the Subject 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 Sub-Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Subject 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; 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.
12. The Sub-Committee will usually move to another room or ask the room to be vacated, to consider the representations and evidence in private.
13. On their return, the Chairman will announce the Sub-Committee's findings of fact.

### **Did the Subject Member fail to follow the Code?**

14. The Sub-Committee then needs to consider whether or not, based on the facts it has found, the Subject Member has failed to follow the Code of Conduct.
15. The Subject Member should be invited to give relevant reasons why the Sub-Committee should not decide that he or she has failed to follow the Code.
16. The Sub-Committee should then consider any verbal or written representations from the investigator.
17. The Sub-Committee may, at any time, question anyone involved on any point they raise in their representations.
18. The Subject Member should be invited to make any final relevant points.
19. The Sub-Committee will then move to another room or ask the room to be vacated, to consider the representations.

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20. On their return, the Chairman will announce the Sub-Committee's decision as to whether or not the Subject Member has failed to follow the Code of Conduct.

### **If the Subject Member has not failed to follow the Code of Conduct**

21. 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.

### **If the Subject Member has failed to follow the Code**

22. If the Sub-Committee decides that the Subject Member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the investigator and the Subject Member as to:
  - a. whether or not the Sub-Committee should set a penalty; and
  - b. what form any penalty should take.
23. The Sub-Committee may question the investigator and Subject Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.
24. The Sub-Committee will then move to another room or ask the room to be vacated, to consider whether or not to impose a penalty on the Subject Member and, if so, what the penalty should be.
25. On their return, the Chairman will announce the Sub-Committee's decision.

### **Recommendations to the authority**

26. After considering any verbal or written representations from the investigator, the Sub-Committee will consider whether or not it should make any representations to the authority, with a view to promoting high standards of conduct among Members.

### **The written decision**

27. The Sub-Committee will announce its decision on the day whenever it is practicable to do so and provide a short written decision on that day. It will also need to issue a full written decision shortly after the end of the hearing. It is good practice to prepare a full written decision in draft on the day of the hearing, before people's memories fade.