

APPENDIX C

SLOUGH BOROUGH COUNCIL

Standards (Local Determination) Sub-Committee

Local Hearing Procedure

Interpretation:

“Member” means the Member of the Council who is the subject of the allegation(s) being considered by the Sub-Committee, unless stated otherwise. It also includes the Member’s nominated representative (if any).

“Investigator” means the Ethical Standards Officer (ESO) who referred the report to this Council or the Monitoring Officer and includes his or her nominated representative.

1. Preliminaries

1.1 The Chair will:-

- (a) ask the Members/Officers present to introduce themselves.
- (b) ask the Member Services Manager (or her representative) to confirm that the Sub-Committee is quorate.
- (c) ask the Investigator and the Member if they are to call any witnesses and if so who.
- (d) ask all present to confirm they know the procedure which the Sub-Committee will follow.
- (e) ask the Member, the Investigator and the Monitoring Officer (or his representative) whether there are any reasons to exclude the press and public from the meeting and if so on what grounds
- (f) advise the Sub-Committee that the determination process is in two stages:-
 - (i) whether or not the Member has failed to comply with the Local Code of Conduct as set out in the Investigator’s report and
 - (ii) if the Sub-Committee consider that a breach of the Local Code of Conduct has occurred what action (if any) the Sub-Committee should take.

- 1.2 The Chair will explain how the Sub-Committee is going to run the hearing and remind everyone that the Sub-Committee have received and read all of the witness statements and supporting documentation which form part of the agenda papers. Thus the Investigator and the Member should confine themselves to exploring any inconsistencies within the evidence and draw that to the attention of the Sub-Committee.
- 1.3 The Chair will emphasise that the proceedings are inquisitorial in nature not adversarial so cross-examination is not permitted.

2. Making Findings of Fact/Has there been a Breach? – Stage 1

- 2.1 The Monitoring Officer (or his representative) shall present the report submitted to the Sub-Committee together with the supporting documentation. Confirmation will then be sought from the Member as to whether there are any other additional points i.e. new ones which are not contained in the documentation.
- 2.2 The Investigator will present his case in the presence of the Member and may call witnesses to support the relevant findings of fact in the report.
- 2.3 The Member, will have the opportunity to ask questions of any witnesses the Investigator may call.
- 2.4 The Sub-Committee may ask questions of the Investigator and witnesses.
- 2.5 The Member will present his case in the presence of the Investigator and call such witnesses as he wishes to support his version of the facts.
- 2.6 The Investigator will have the opportunity to ask questions of the Member and his witnesses.
- 2.7 The Sub-Committee may ask questions of the Member and his witnesses.
- 2.8 The Chair shall then seek confirmation from the Members of the Sub-Committee that sufficient information is now available to determine whether there has been a breach of the Code.
- 2.9 At the discretion of the Chair the Investigator and the Member shall be given an opportunity to sum up their case (no more than five minutes each).

- 2.10 The Sub-Committee may, at any time, question anyone involved on any point they raise in their representations.
- 2.11 The Sub-Committee shall then in private identify the material findings of fact and decide whether the Member did fail to comply with the Local Code of Conduct (All parties to leave room except Member Services Manager (or her representative) who will minute). The standard of proof is the balance of probabilities.
- 2.12 Once the Members of the Sub-Committee have come to a decision then all parties shall return to hear the material findings of fact, whether the allegation has been proven and what recommendations they have for the Council to promote high standards of conduct. Reasons will be given for the decision.
- 2.13 If the Sub-Committee find that the case is not proven the meeting must ask the Member whether he wishes the Council not to publish a statement of its findings in a local newspaper. Then the meeting is closed.
- 2.14 If the case has been proven then the Sub-Committee will proceed to Stage 2.

3. What Sanction should be Imposed? – Stage 2

- 3.1 If the Sub-Committee decide that the Member **has** failed to follow the Local Code of Conduct, then it will consider:-
 - (i) whether or not the Sub-Committee should set a penalty; and
 - (ii) what form any penalty should take (see attached)
- 3.2 The Sub-Committee may question the Investigator and Member and take legal advice if appropriate.
- 3.3 The Sub-Committee will then retire to consider whether or not to impose a penalty on the Member, and if so, what the penalty should be.
- 3.4 The Sub-Committee will return and the Chair will announce the Sub-Committee's decision and will provide a short written decision on the day.
- 3.5 The Chair will inform the Member of his right of appeal to the First-Tier Tribunal.

4. Post Hearing Procedure

- 4.1 A full written decision will be issued within 14 days of the end of the hearing which will include full reasons for its decision.

- 4.2 The Sub-Committee will arrange to publish a summary of its findings, the decision reached and where appropriate the penalty set in one or more newspapers (independent of the Council).

Notes

- A. All Members of the Sub-Committee have the right to ask questions/seek clarification once the Investigator and the Member have presented their respective cases.
- B. The Complainant has no right to speak.