



## LOCAL DISPUTE RESOLUTION PROCEDURE CONDUCT OF STAGE 3 HEARING

It is to be noted that:

Hearings are to be held in private.

The Member who is the subject of the complaint ('the Respondent') will have received a copy of the Complaint Form and any further submissions by the complainant in line with paragraph 16 of the Local Dispute Resolution Procedure ('the Procedure').

Both parties have the right to representation or can be accompanied by a colleague, friend, family member or Group Leader. It will be for each of the parties to make their own arrangements regarding representation.

Prior to the commencement of the Hearing, the 3 Independent Members of the Standards Committee (nominated by the Chairman of the Standards Committee) will elect a Chairman for the Hearing ('the Chairman').

The Chairman will have the discretion to supplement or vary the procedure to be followed at the Stage 3 Hearing as deemed appropriate.

Witnesses will not be permitted to be present in the Hearing room at the outset but will be called individually to give their evidence at the appropriate time and will be required to leave following their evidence.

Where witnesses are to be called, the parties will be required to notify the Democratic Services Officer not less than **five working days** prior to the Hearing. Both parties will need to ensure that their witnesses are in attendance. Witnesses are required to provide a statement prior to the Hearing and for the statement to be provided to the Democratic Services Officer not less than **five working days** prior to the Hearing.

The Monitoring Officer or Deputy Monitoring Officer will provide advice and support to the Independent Members but will not determine the matter.

The decision of the Independent Members will be based on the standard of proof of the balance of probabilities.

## **At the Hearing**

### **Step 1**

At the Hearing those present will include the Independent Members, the Monitoring Officer or Deputy Monitoring Officer, a representative from Democratic Services, the Complainant, the Respondent and their representatives or person accompanying each party (if required).

The Chairman will open the Hearing and establish the identity of all present and will outline the order of proceedings for the Hearing.

The Chairman will seek confirmation that all parties have received the relevant documentation and will specify the complaint(s) against the Respondent.

### **Step 2**

The Chairman will commence by requesting the Complainant (or their representative) to present their case following which questions may be asked by the Respondent (or Respondent's representative) and the Independent Members.

Complainant's witness(es) to be called to give evidence following which questions may be asked by the Respondent (or their representative) and the Independent Members. The Complainant (or their representative) may seek clarification from their witness(es) on any points arising from the questioning.

### **Step 3**

The Respondent or their representative will then be afforded the opportunity to present their case followed by questions from the Complainant (or their representative) and the Independent Members.

Respondent's witness(es) to be called to give evidence following which questions may be asked by the Complainant (or their representative) and Independent Members. The Respondent (or their representative) may seek clarification from their witness(es) on any points arising from the questioning.

Throughout the Hearing the Independent Members, Monitoring Officer or Deputy Monitoring Officer may also seek clarification or ask relevant questions of both parties.

### **Step 4 - Summing Up**

The Chairman will then afford both parties (Complainant and Respondent respectively) the opportunity to sum up.

## **Step 5**

Following the summing up both parties and their representatives will be asked to vacate the room in order that the Independent Members can deliberate and decide whether the complaint is proved or not proved in private. The Independent Members will be accompanied only by the Monitoring Officer or Deputy Monitoring Officer and the Democratic Services Officer. The role of officers is to offer advice to the Independent Members but not to determine the outcome of the matter.

The Independent Members' decision will be by majority vote; where necessary the Chairman shall have a casting vote.

## **Step 6**

The parties will be called back in and the Chairman will advise whether the complaint is proved or not proved. If proved, the Respondent will be asked to give any mitigation which might affect the Independent Members' decision.

## **Step 7 Hearing Decision**

The Independent Members will consider the mitigation submitted and come to their decision in private.

It will be at the discretion of the Chairman whether the Independent Members will reach a decision on the day of the Hearing and how the decision will be communicated (either face-to-face or by telephone). The Complainant and Respondent will both be advised orally of the decision.

The Chairman, at the end of the Hearing, will remind parties that there is no right of appeal against the decision made by the Independent Members at Stage 3 of the Procedure.

The Chairman will aim for a written decision to be issued within **seven working days** of the decision being made. The written decision will set out the decision of the Independent Members and the reasons for the decision. A copy of the decision letter will only be sent to the Respondent.

The Independent Members may come to one of three conclusions, namely:

- (i) There is no basis to the complaint;
- (ii) There is a basis to the complaint but that no further action is required. The Independent Members may also make recommendations to the Council regarding changing any procedures or taking any further action and or may also direct that an apology be offered to the Complainant and that the Member who is the subject of the complaint attends further training within a specified timescale;
- (iii) There is a basis to the complaint and that the Member be censured. The Independent Members may also make recommendations to the Council regarding changing any procedures or taking any further action and or may also direct that an apology be offered to the Complainant and that the Member

who is the subject of the complaint attends further training within a specified timescale.

Should the Independent Members determine conclusion (i) or (ii) as outlined above, all parties will be reminded that no publicity will be given to the name of the Members involved in the complaint or any details of the complaint.

Should the Independent Members' conclusion be that there is a basis to the complaint and that the Member be censured, then a statement on the Council's website will be issued ideally within **seven working days** of the decision letter being issued which will detail the name of the Respondent, the fact that the Respondent has been censured pursuant to the Procedure, when the censure decision was made and a summary of the facts as deemed appropriate by the Independent Members presiding at the Hearing. The statement will appear on the Council's website for not less than **twenty eight calendar days**.

DRAFT