

Standards Committee: holding an effective hearing

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Bath & North East Somerset Council

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INTRODUCTION

- Legal Framework
- Pre-Hearing & Formalities
- Hearing
- Sanctions
- Things to do & to avoid
- Questions

Legal Framework

- **Committee on Standards in Public Life.**
 - Report published in January 2019 with recommendations
 - No formal response
 - Covid
- **Legislation**
- Localism Act 2011
 - Duty to promote and maintain high standards in public life (s27)
 - Adopt Code of Conduct 'consistent with the Seven Principles of Public Life (s28) the Nolan Principals))
- Local Government Act 1972
 - Meetings in person & public unless excluded by resolution (s100A).
- **Common Law Principals**
 - Rules of natural justice
 - Procedural fairness
 - Bias actual/apparent

Pre –Hearing & Formalities

- **Pre-hearing**
 - conducted by Monitoring Officer
 - identify contentious/agreed issues
 - necessity for witnesses
 - evidence
- **Hearing**
 - Minimum 5 Members (including at least 1x Independent Person and 1x Parish Councillor)
 - Legal Advisor
 - Subject Member with/without representation
 - Witnesses/evidence
 - Investigator
- **Introductions - formalities**
 - Committee/Legal Advisor
 - court of law -v- administrative
 - cross examination -v- discussion
 - rules of evidence/ambush
- **Procedural matters**
 - Address if raised - guidelines not tramlines – your process

Hearing

- **Fact finding**
 - Areas of significant disagreement
 - Investigator invited to present report - questions
 - Subject Member makes representation – questions/deferral
 - Deliberation/determination of facts – legal advice
 - Standard of Proof
- **Did the Subject Member fail to follow the Code of Conduct**
 - Member makes representations
 - Investigator points of clarification
 - Independent Person consulted
 - Final word from Subject Member
 - Human Rights Art -10 – comes with responsibilities
 - Deliberation - breach/no breach
- **Reasons**
 - *R v Brent LBC ex p Baruwa [1997]* proper, adequate & intelligible
 - Refer to procedural points addressed
 - Refer to both disregard issues & relevant facts considered
 - Summarise who said what and identify facts upon which the decision is based

Sanctions

- Parties to comment
 - Investigator
 - Independent Person
 - Subject Member
- The Localism Act 2011 does not give the Standards Committee any power to impose sanctions for breach of its Code, for example:
 - Disqualification from office.
 - Withdrawal of monetary allowances payable under the Local Authorities (Members' Allowances) (England) Regulations 2003 (SI 2003/1021).
- The following sanctions are possible:
 - Formal censure/recommend formal censure.
 - Recommend/Removal of the member from committee(s) and or appointment(s)
 - Recommend the member attend training
 - Recommend the withdrawal of facilities/exclusion from premises for a specified period
- NB Robinson v Buckinghamshire CC [2021] Art 10 a qualified right and interference must be grounded on findings and proportionate

Things to do & avoid

- Be inquisitive not a rubber stamp
- Let people have their say but not control proceedings
- Don't give a platform for political/personal attacks
- Disregard the irrelevant
- Attach appropriate weight to the relevant
- Stop any duplication
- It is your procedure act fairly and take ownership

Questions?



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