

# **CLEVELAND FIRE AUTHORITY**

## **HEARING PROCEDURES FOR THE AUDIT AND GOVERNANCE COMMITTEE:**

### **Definition and Interpretation**

'Member' means the Member of the Authority who is the subject of the allegation being considered by the Audit and Governance Committee, unless stated otherwise. It also includes the Member's nominated representative.

'Investigator' means the Monitoring Officer or other Investigating Officer, and his or her nominated representative.

'Committee' also refers to 'a sub-committee' of the Authority's Audit and Governance Committee.

'Legal Adviser' means the officer responsible for providing legal advice to the Committee. This may be the Monitoring Officer or the Deputy Monitoring Officer, another legally qualified officer of the Authority, or someone appointed for this purpose from outside the Authority.

### **Representation**

The Member may be represented or accompanied during the meeting by a Solicitor, Counsel or, with the permission of the Committee, another person.

### **Legal Advice**

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

### **Setting the scene**

After all the Members and everyone involved have been formally introduced, the Chair should explain how the Committee is going to proceed with the hearing.

### **Preliminary procedural issues**

The Committee should seek to resolve any issues or disagreements about how the hearing should be conducted, prior to the formal hearing process.

### **Making findings of fact**

After dealing with any preliminary issues, the Committee should then consider whether or not there are any significant disagreements about the facts contained in the investigator's report.

If there is no disagreement about the facts, the Committee can move on to the next stage of the hearing.

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 Committee's permission, the investigator may call any necessary supporting witnesses to give evidence. The Committee may give the Member an opportunity to challenge any evidence put forward by any witness called by the investigator.

The Member should then have the opportunity to make representations to support his or her version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence.

### **NOTE**

At any time, the 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 Member.

If the 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 Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Member's explanation for not raising the issue at any earlier stage, the Committee may then:

- (a) continue with the hearing, relying on the information in the investigator's report;
- (b) allow the 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.

The Committee will usually move to another room to consider the representations and evidence in private.

On their return, the Chair will announce the Committee's findings of fact.

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

The Committee needs to consider whether or not, based on the facts it has found, the Member has failed to follow the Code of Conduct.

The Member should be invited to give reasons why the Committee should not decide that he or she has failed to follow the Code.

The Committee should then consider any verbal or written representations from the investigator.

The Committee may, at any time, question anyone involved on any point they raise in their representations.

The Member should be invited to make any final relevant points.

The Committee will then move to another room to consider the representations.

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

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

If the Committee decides that the Member has not failed to follow the Code of Conduct, the Committee can move on to consider whether it should make any recommendations to the authority.

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

If the Committee decides that the Member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the investigator and the Member as to:-

- (a) whether or not the Committee should recommend action to be taken; and
- (b) what form any action should take.

The Committee will then move to another room to consider whether or not to impose a sanction on the Member and if so, what the sanction should be.

The Chair will announce the Committee's decision.

### **Recommendations to the Authority**

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

### **The written decision**

The Committee will announce its decision on the day and provide a short written decision on that day. It will also need to issue a full written decision within 5 working days from the conclusion of the hearing.