



Please reply to:

Contact: Gary Lelliott
Service: Corporate Governance
Direct line: 01784 446240
E-mail: g.elliott@spelthorne.gov.uk
Date: 5 May 2022

Notice of meeting

Standards Sub-Committee - Hearing

Date: Friday, 13 May 2022

Time: 10.00 am

Place: Council Chamber, Knowle Green, Staines-upon-Thames, TW18 1XB

The members of the Sub-Committee
Dylan Price (Vice-Chair, in the Chair)
Cllr M.M. Attewell
Cllr J.T.F. Doran
Cllr R.A. Smith-Ainsley

Spelthorne Borough Council, Council Offices, Knowle Green

Staines-upon-Thames TW18 1XB

www.spelthorne.gov.uk customer.services@spelthorne.gov.uk telephone 01784 451499

AGENDA

Page nos.

1. Disclosures of Interest

To receive any disclosures of interest from councillors in accordance with the Council's Code of Conduct for members.

2. Exclusion of Press and Public

The Panel is asked to consider excluding the press and public from the meeting during consideration of the following item on the grounds that it is likely to involve the disclosure of exempt information as defined in Paragraph 2 (Information likely to reveal the identity of an individual) of Part 1 of Schedule 12A of the Local Government Act 1972.

In making its decision, the Panel is asked to confirm that having regard to all circumstances, it is satisfied that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In this case the proper administration of the complaints procedure in the public interest is that consideration of complaints should not be made public at an early stage, when the complaints may or may not be proved and may or may not be investigated.

Procedural documents

To note the procedure for the Hearing.

3. Exempt Determination of Complaint against Councillor B

7 - 98

To consider the exempt report of the Investigating Officer and determine whether the complaint against Councillor B amounts to a breach of the Members' Code of Conduct and whether any sanctions are appropriate.

Spelthorne Borough Council

Members' Code of Conduct Committee

Hearing Procedures - Final Hearings

To encourage the confidence of members and the public the following procedures have been adopted by the Members' Code of Conduct Committee to ensure a consistent approach is taken to determining matters locally.

The Panel will comprise of three voting members of the Standards Committee (councillors) selected by the Monitoring Officer in consultation with the Chairman of the Standards Committee. The councillors shall, wherever possible, be selected on a politically proportionate basis. An Independent Member is invited to Chair the Panel but legally cannot vote on the decision.

The investigation shall be carried out promptly, with the expectation that all investigations, resolutions and hearings will be completed within a maximum period of three months. All those involved in the complaint should do their utmost to ensure that this can happen.

There will be an expectation that the Hearing will sit from 10.00am to 4.00pm and if there is a need for the hearing to continue then the hearing will re-convene the following day.

INTERPRETATION

Member - means the councillor or co-opted member of the authority who is the subject of the allegation being considered by the Standards Committee, unless otherwise stated.

Investigator - means the Monitoring Officer, an independent investigator appointed by the Monitoring Officer or a senior officer of Spelthorne Borough Council or another local authority who has agreed to assist the Committee.

Committee - also refers to a Hearings Panel of the Standards Committee;

Legal Advisor - means the officer responsible for providing legal advice to the Standards Committee. This may be the 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 fellow councillor, a solicitor or counsel, or with the permission of the committee another person.

Legal Advice – the Committee may take legal advice, in private if necessary, from its legal advisor 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.

Pre-hearing Process

1. The Monitoring Officer or the Hearings Panel may conduct a pre-hearing process in order to narrow the issues between the parties and make appropriate provision for the smooth running of the Hearing. Where this happens the Monitoring Officer will provide a letter to all parties outlining the issues to be determined for and the arrangements for making decisions about all such matters.
2. In complex cases it may be appropriate for the Hearings Panel to meet in advance to deal with all such procedural issues but the Monitoring Officer will provide an agenda for such meeting outlining the matters to be resolved.

3. The Legal Advisor will advise the Chairman whether the hearing should be in public or private. The Access to Information Rules will apply to this hearing as it would apply to any other meeting of the Council. In order to air procedural matters properly in advance of a hearing it is normally expected that the Panel will take place in private unless there are exceptional circumstances which dictate otherwise.

Hearings Procedure

4. At the start of the hearing the Chairman will:
 - Introduce members of the committee and others in attendance
 - Explain the purpose of the meeting and how it will proceed
5. The Legal Advisor will advise the Chairman whether the hearing should be in public or private. The Access to Information Rules will apply to this hearing as it would apply to any other meeting of the Council. In order to give confidence to the public it is expected that the Panel will take place in public unless there are exceptional circumstances which dictate otherwise.
6. The Committee will then resolve any other issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.
7. If there are disagreements about the facts the Investigator, if present, will be invited to make representations to support the findings of their report and with the Committee's permission to call supporting witnesses. The committee will give the Member an opportunity to challenge any evidence put forward by a witness but any direct questions are put through the Chairman.
8. The Member will then have the opportunity to make representations to support his or her version of the facts and with the Committee's permission to call supporting witnesses. The Committee will give the Investigator an opportunity to challenge any evidence put forward by a witness.
9. At any time the Committee may question the investigator, the Member or their witnesses.
10. The Committee will not allow the member to raise a disagreement with the facts, which was not raised prior to the hearing, unless the Member satisfies the Committee there were good reasons for not raising the disagreement before. If the Investigator is not present the committee will consider whether or not it would be in the public interest to continue in the Investigator's absence. After considering the position and the Member's explanation for not raising the disagreement at an earlier stage the committee may:
 - (a) Continue 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 necessary; or
 - (c) Postpone the hearing to arrange for the Investigator to be present if he or she is not already or for appropriate witnesses to be present.
11. The Investigator and Member will normally be given the opportunity to make short closing statements before the Committee retires to reach its decision. The Member will speak last to have the final say.
12. The Committee will then consider its decision based on the facts presented in private.
13. If any clarification or legal advice is needed this will be undertaken with all parties present.

14. On their return to the hearing, the Chairman will announce the Committee's findings of fact and whether the Member has failed to follow the Code of Conduct.
15. If the Committee decides that the Member has failed to follow the Code of Conduct, the chairman will inform the Member of this finding.
16. The Investigator and the Member will be invited to make any final relevant points as regards the sanction which should be imposed.
17. The Committee will then consider the representations and make its decision in private and will consider any representations from the Investigator and the Member as to:
 - (a) Whether or not the committee should set a penalty; and
 - (b) What form any penalty should take.
18. The Committee will then consider in private whether or not to impose a penalty on the Member and, if so, what the penalty should be.
19. The Chairman will then announce the committee's decision.
20. The Committee will then consider whether it will make any recommendations to the Council on any future preventative measures or tightening up procedures, with a view to promoting high standards of conduct among members. In doing so they will consider any verbal or written representations from the investigator.
21. The Committee will announce its decision on the day and provide a short written decision on that day. It will issue a full written decision as soon as practicable and send it to all concerned with the hearing.

Adopted 27 February 2013

Updated July 2021

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

Spelthorne Borough Council

Code of conduct for councillors and co-opted members

General Obligations

You are a councillor or co-opted member of Spelthorne Borough Council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a councillor or co-opted member -

1. You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
2. You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
3. When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
4. You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
5. You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
6. You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out below.
7. You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.
8. You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
9. You must treat others with respect. This means treating people fairly and equitably and with courtesy, compassion and sensitivity. You should treat other people equally as you yourself would expect to be treated. You must never use behaviour which a reasonable person would consider as offensive, overbearing, intimidating, malicious, insulting or humiliating.
10. You must discharge your duties and conduct yourself in such a way that assists the Council to comply with its duties under the Equality Act 2010.

11. You must respect the distinct but complementary roles that councillors and staff have in their work for the Council and abide by the advice in the Member Officer Protocol.
12. You must recognise that the staff working for, or on behalf of, the Council are required to be impartial and you must not do anything which compromises that impartiality.
13. If a complaint is made under this Code of Conduct then you must not interfere with the administration or investigation of the complaint and you must not intimidate any complainant, witness or likely witness or engage with them in any way which undermines the investigation.

Registering and declaring pecuniary and non-pecuniary interests

14. You must, within 28 days of taking office as a councillor or co-opted member, notify the Monitoring Officer of any "Disclosable Pecuniary Interest" as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
15. In addition, you must, within 28 days of taking office as a councillor or co-opted member, notify the Monitoring Officer of other Non-Pecuniary Interests which the Council has decided should be included in the register.
16. The Council has decided that it is appropriate for you to register and disclose Non-Pecuniary Interests that arise from your membership of, or your occupation of a position of general control or management in, the following bodies:
 - a. bodies to which you have been appointed or nominated by the Council;
 - b. bodies exercising functions of a public nature;
 - c. bodies directed to charitable purposes;
 - d. bodies one of whose principal purposes includes the influence of public opinion or policy.
17. If an interest (under paragraphs 14-16 above) has not been entered onto the Council's register, then the councillor or co-opted member must disclose the interest to any meeting of the authority at which they are present, where they have an interest in any matter being considered and where the matter is not a 'sensitive interest'.¹
18. Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
19. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a Disclosable Pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions the Council places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by the Council.

¹ A 'sensitive interest' is described in the Localism Act 2011 where the councillor or person connected with the councillor could be subject to violence or intimidation.

Other guidance

20. The Members' Code of Conduct Committee publishes other guidance to assist councillors and co-opted members to meet the aspirations of this Code. You should make yourself familiar with this guidance and act accordingly:
 - a. The Planning Code
 - b. Policy on Gifts, Hospitality and Sponsorship
 - c. Conflicts of Interest Policy

This page is intentionally left blank