

# Holding an effective hearing

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# Setting the scene

- Pre-hearing
- Hearing
- Post-hearing

# Legal framework

- Specific
- General

# Specific

- *Local Government Act 2000* (as amended)
- *Local Determination Regulations* (2003 and 2004)
- Standards Board for England guidance
- Code of Conduct

# General

- Natural justice – procedural fairness
- Bias/predetermination
- Personal and prejudicial interests

# What must happen?

- Send report to subject member
- Hold hearing within three months
- Composition of panel

# What must happen?

- ‘Have regard to’ Standards Board for England guidance
- Give member opportunity to:
  - present evidence
  - make representations

# What must happen?

Panel must make findings:

- any disputed facts? Assess reliability and credibility
- breach of Code? If so...
- sanction?



# What must happen?

Panel must consider:

- full range of sanctions
- aggravation/mitigation – see Standards Board for England guidance

# What must happen?

- Committee must give reasons for its decisions

# What must not happen?

- Committee to act as ethical standards officer's 'rubber stamp'
- Time wasted on irrelevant matters/witnesses

## Committee may:

- Adjourn for further information/investigation
- Request referral back to an ethical standards officer

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## Good practice

- We had a procedure/standard letters
- Involved three parish councillors
- Lever arch file of papers/evidence
- Our first local investigation came in the same week!

# Plan now

- Learn from ones you have done
- Have standard letters/forms
- Have a timetable and stick to it
- Get dates in diaries

# Clarity and focus

- Comment on draft report
- Identify the alleged breaches
- Be clear which part(s) of the Code
- Be clear on evidence for each alleged breach
- Focus – don't get diverted



# Clarity and focus

- Roles – identify who will do what
- Communicate with officers, ethics committee members
- Monitor and review all the way through

# Roles

- Monitoring officer
- Clerk for the panel
- Case officer/contact for the councillor
- Facilitators/committee officers
- Stenographer

# The panel

- Who will chair the panel? – is training required?
- Meet with the chair and identify for him/her their time
- Training for the panel
- Size of panel – no more than five people

# Identify the specifics of the case

- Site visit?
- Venue – prepare
- What will make this go well?

# Communicate clearly

- Establish a clear relationship with councillor(s) subject to the allegation
- Plain English
- Be clear about dates/deadlines

# Prepare for pre-hearing

- Agenda for it
- Record it
- Communicate it

# Train and improve

- Training
- Role play
- Feedback/learn from it
- Incorporate lessons learned

## On the day

- Make sure people know what they need to do
- Attendance – check in advance
- Have guidelines on sanctions
- Don't assume everyone knows what is going on



## Role of the clerk/chair

- Clerk/chair – be clear about what they must produce
- Know what has to be done after the hearing and by whom and by when
- You can prepare in advance

# Feedback

- Don't be afraid to get feedback afterwards
- Learn from it
- Amend your process before you forget

# Pitfalls

- Don't treat it as a set process – adapt/be flexible
- Don't assume people's knowledge
- Everyone is nervous – put them at ease

# Pitfalls

- Don't underestimate the time resource to do this well
- Don't have too large a panel – five is good
- Don't lose focus – don't be sidetracked

# Pitfalls

- Be clear about conflicts – raise this early with panel
- Anticipate the questions/issues/evidence/gaps – or else!
- Know who you are dealing with and adapt accordingly

# Pitfalls

- Keep a good record all the way through the process
- Venue – press, public, retiring room
- Press, public, complainant – how to deal with them
- The more you do from the good practice – the more you avoid the pitfalls

# How does this compare to your experience?

- How was it for you?
- What would you do differently?

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