



HEARINGS PANEL PROCEDURE

GUIDANCE NOTE FOR COMPLAINANTS

These notes set out for your information and guidance details relating to the procedure before, and at, the hearing and of related matters.

My representative will be pleased to clarify any general points that may be unclear but please note that s/he cannot discuss issues relating to the subject of your complaint.

So that we can deal with your complaint fully and fairly you will need to complete the attached Hearing Request form and return it to Committee Administration within **28 days of the form being sent to you** in order that the time taken to process your complaint fully is not unduly delayed. If you require additional time to complete the form, this needs to be requested in writing and reasons given. Additional time will be given in exceptional circumstances.

The Hearing Request form is an important document as it gives you the opportunity to explain what your complaint is about in a way which can be easily followed by Councillors and, and you also have the chance to supply any background and other papers in support of your case (in particular, details of the complaint you asked to be considered at Stage 2 of the corporate complaints process and the response you received from the Council to it. Please provide original copies of all such documents (if possible) - they will be copied and returned to you as soon as practicable (but not necessarily straightaway).

Please note:

you **CANNOT** not raise **new** issues for consideration as this is an appeal.

Generally, you may send papers in at any time but the nearer to the Hearing date that is, the more likely it will be that consideration of your complaint may be delayed. It may not be possible to deal with papers that are produced only on the day of the Hearing.

Complaints are normally dealt with at a formal hearing by the Hearings Panel at which you attend in person. You do, however, have the right to request that your complaint be considered through the "written representations procedure" instead.

The first part of the process is a procedural one. Once we have received your completed Hearing request form and any accompanying documents, a Panel of Councillors will be convened to consider it as well as the views of the Service complained about – including what measures have been taken to resolve the problem(s) at Stages 1 and 2. **This meeting is for Councillors only.** A Chairman and another member of the Adjudication and Review Sub-Committee will consider, in private, the basis on which an Appeal Panel could be convened. This Panel (the Initial Assessment Panel [IAP]) has the task of filtering hearings requests which either do not follow-on from the Stage 2 complaint and response (congruency), need, in its opinion, further officer consideration or do not fall within the legal and/or procedural powers of Councillors to determine – due to legal restrictions or national or local policies. If

any of the above occur, a formal hearing would not be recommended and you would be advised accordingly.

Should it be decided to proceed to a hearing, we aim to convene the Hearings Panel within twenty-eight days of this decision but that may not always be possible and if there is likely to be a delay, we will contact you and explain why.

Prior to the hearing, we will send to you and the members of the Panel copies of the following papers:

- (a) Notice of the hearing
- (b) An agenda for the meeting, incorporating a written report about your complaint and supporting papers
- (c) The written representations made by you (or on your behalf)

The Hearings Panel consists of 3 Members of the Adjudication & Review Sub-Committee (different from those who formed the IAP) and an Independent Person, who is not a Councillor or employed by the Council. My representative, who will be in attendance to assist the Panel, is independent of the Service responding to your complaint and will have had no connection with the subject matter of your complaint and will not take part in the determination of it.

Hearings take place at Havering Town Hall, Romford. These will be held either during the daytime or in the evening. If you choose to attend a Hearing in person, please indicate on the enclosed form at what time of the day you would prefer the Hearing to be held.

Procedure for a Hearing in Person

1. You may be accompanied, or represented, by one other person. You may also call other people to give evidence on your behalf if you feel that they could help your case - *but please note that you cannot in any circumstances request specific members of the Council's staff to attend.*
2. It will not normally be necessary for you to engage the services of a professional advocate - for example, a solicitor - to represent you but you are free to do that if you wish: **please note, however, that the Council will not provide financial assistance towards any cost you incur in that respect.**
3. A waiting room will be provided, if available, for your use, and for use by any person accompanying or representing you, and any witnesses you may wish to call on your behalf.
4. Any "witnesses" nominated by you to attend, must wait either outside the room, or, if a waiting room has been provided, wait there until they are called. Once they have given their evidence and have been questioned and dismissed by the Panel, they must leave the room and should return to the waiting room and wait there for the hearing to conclude. On no account should they leave the building as the Panel might need to recall them if it feels further clarification is required.

At the hearing

5. Apart from the members of the Panel and my representative, those present at the hearing will be yourself, any person accompanying or representing you and any witnesses appearing on your behalf (when called), and the staff representing the appropriate Service together with their witnesses (if any). The proceedings will be kept as informal as possible but it is necessary to maintain a logical approach and the procedure adopted at the hearing will normally be as follows:
 - (a) **Opening remarks** and introductions by the Chair
 - (b) **The conduct of the Hearing.**
 Because the process is "*Inquisitorial*" (which means that the hearing will be conducted by the Panel asking questions), there will be no reason for you to repeat the information you have already provided in written form ahead of the hearing (which will form part of the agenda papers) and which the Panel will have already read and considered.
 - (c) The Panel may start the process by asking either you (or your representative) or the Service representative for information and, depending on the answers provided, the Hearing will continue in a question and answer fashion until the Panel members are satisfied that they have sufficient information on which to form the basis of their decision.
 - (d) Both you and the Service representative will have a chance to make closing statements to the Panel.
6. At the close of the proceedings you, anyone accompanying you, and the Service's representative(s), will be asked to withdraw. The Panel will then consider the points made on both sides and agree on their decision and the reasons for it.

The Decision: what the Panel will do

Whether you opt for the Written Representations procedure or a Hearing in person, the Panel will consider your complaint on the basis of the written information before it and in the light of what it has heard if you have had a hearing in person. The Panel will make **recommendations** to the Service as to the action required to deal with your complaint. The Panel can:

- (a) dismiss your complaint wholly or in part – in which case no further action will be taken on those elements dismissed; or
- (b) uphold your complaint wholly or in part – in which case, the Panel will decide what action is needed to put those elements upheld, right.

If the complaint is upheld wholly or in part, the Panel will decide what action is needed to put the matter right.

PLEASE NOTE, HOWEVER, THAT IN PLANNING DISPUTES, THE PANEL CANNOT REVOKE A PLANNING PERMISSION THAT HAS ALREADY BEEN GRANTED – OR RECOMMEND REVOCATION.

During this process, the Panel may seek advice and guidance from my representative at the meeting but, as indicated earlier, s/he will not take part in the decision. If, during the course of the Panel's deliberations, further information is required you (and those accompanying you) and the Service's representative(s) will be invited either to appear before the Panel again on another occasion, or to respond in writing to the Panel's questions without needing to appear again.

A **Decision Letter** - which is a brief written statement setting out the Panel's recommendations to the Service and giving its reasons - will be sent to you within **5 working days** of the hearing. Minutes – which provides a formal record of the Hearing itself - will be produced within 28 days of the hearing and signed by the Chairman. A copy will be sent to you on request.

Ian Buckmaster
Committee Administration &
Member Support Manager