

## **PROCEDURE FOR INVESTIGATION REGARDING ANY ALLEGATION OF MISCONDUCT AGAINST A MEMBER OF A MUNICIPAL COUNCIL**

### **EMPOWERING PROVISIONS**

Allegations of misconduct against Councillors are dealt with in Schedule 7, Code of Conduct for Councillors, of the Local Government: Municipal Structures Act, Act 117 of 1998 and the By-law on Rules of Order for Internal Arrangements, 2013, as amended.

### **STANDARD PROCEDURES**

1. Whenever the Speaker becomes aware of any contravention of or failure to comply with any provision of the Code of Conduct as contained in Schedule 7 of the Local Government: Municipal Structures Act, Act 117 of 1998, he or she may of own volition, or whenever any allegation is made in a sworn or affirmed statement to the effect that a member of the council has contravened or failed to comply with any provision of the Code, he or she shall-  
  
obtain the written comments of the member concerned; and investigate the facts and circumstances informally.
2. If a member fails to furnish the Speaker with his or her comments within 14 days after being requested to do so by the Speaker or after such extension of time as permitted at the discretion of the Speaker, the Speaker may form his prima facie opinion without such comments.
3. If the Speaker is satisfied that a contravention or failure to comply has not prima facie occurred, he shall inform the person who made the allegation or statement and the member implicated of his or her decision.
4. If he or she is satisfied that a contravention or failure to comply has prima facie occurred, he or she shall call a meeting of the committee selected by the Council either in general or specifically for that purpose to consider the matter. Any member implicated in the matter shall not be entitled to serve in the committee.
5. The Speaker shall determine the procedure for the hearing of the matter, provided that the following rules be complied with-
  - (a) Any person giving evidence before the committee may be required to do so under oath or affirmation;
  - (b) The member implicated has the right to be present when any evidence is heard, except as set out in (e), and may ask relevant questions based on the statement to the person, as may the committee;
  - (c) The committee may ask questions from the member implicated;
  - (d) The member implicated will be entitled to representation by a legal representative or other representative approved by the committee as may any person appearing before the committee;

- (e) If the member implicated refuses to attend the meeting, does not attend the meeting or is instructed by the Speaker to leave because of his or her conduct at the meeting, the meeting may continue in the absence of such member;
  - (f) The Speaker and/or committee may be assisted during the proceedings by an official or other adviser;
  - (g) The member implicated will have the right to present evidence on the statements implicating him or her and to call witnesses;
  - (h) The committee may call witnesses to assist them in making a decision.
6. If the Speaker is implicated in any contravention of or failure to comply with the Code of Conduct, the functions in this procedure will be performed by the Mayor and if he or she is also implicated, then by a member appointed by Council.
  7. After consideration of all evidence the committee must make a finding whether the member contravened or failed to comply with the Code of Conduct and inform the person who made the allegation or statement and the member implicated of its finding.
  8. If the finding is that the member did contravene or fail to comply with the Code of Conduct, the committee must report its finding to Council and recommend an appropriate sanction.
  9. After deciding on the appropriate sanction by Council the Speaker must inform the member thereof and inform the member of his or her right of appeal in terms of the Code of Conduct.

<b>POLICY SECTION:</b>	Council Support Services
<b>CURRENT UPDATE:</b>	09 November 2022
<b>PREVIOUS REVIEW:</b>	
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