

Arrangements for dealing with standards allegations under the Localism Act 2011

1. Context

These “Arrangements” set out how you may make a complaint that an elected, appointed or co-opted Member of the Peak District National Park Authority (PDNPA) has failed to comply with the Authority’s Code of Conduct, and sets out how the Authority will deal with allegations of a failure to comply with the Authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Authority must have in place “arrangements” under which allegations that a Member or co-opted Member of the Authority, or of a Committee or Sub-Committee of the Authority, has failed to comply with that Authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Authority to appoint at least one Independent Person, whose views must be sought by the Authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Authority at any other stage, or by a Member against whom an allegation as been made.

2. The Code of Conduct

The Authority has adopted a Code of Conduct for Members, which is attached as Annex One to these arrangements and available for inspection on the Authority’s website and on request from Reception at the PDNPA Offices.

3. Making a complaint

If you wish to make a complaint, please write or email to –

Andrea McCaskie
The Head of Law & Monitoring Officer
Peak District National Park Authority
Aldern House
Bakewell
Derbyshire
DE45 1AE

Or –
andrea.mccaskie@peakdistrict.gov.uk

The Monitoring Officer is a senior officer of the Authority who has statutory responsibility for maintaining the register of Members’ interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the Authority’s website, next to the Code of Conduct, and is available on request from Reception at the PDNPA Offices and attached as Annex Two.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the Member against whom you make the complaint, without your prior consent. The Authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

4. Will your complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. Matters which will be taken into account as part of the assessment process are set out in the Procedure for Considering Complaints that Members have breached the Code of Conduct as set out in Annex Three. This decision will normally be taken within 20 working days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the Member against whom your complaint is directed.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the Authority such as training by the Member.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

5. How is the investigation conducted?

The Authority has adopted a procedure for the investigation of misconduct complaints, which is attached as Annex Four to these arrangements and Guidance for Members subject to an investigation which is attached as Annex Five.

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the Authority, an officer of another authority or an external investigator with relevant experience. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the Member against whom you have complained and provide him/her with a copy of your complaint, and ask the Member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the Member, or delay notifying the Member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both at least 14 days to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

6. What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer, in consultation with the Independent Person, will review the Investigating Officer's report and, if he/she is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Member concerned, notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that no further action is required, refer the report to the Programme and Resources Committee (Hearing Panel) for consideration. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

7. What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and will then send the matter for local hearing before the Programmes and Resources Committee (Hearing Panel) ('the Hearing Panel') which will conduct a local hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.

The Authority has agreed a procedure for local hearings, which is attached as Annex Six to these arrangements.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the Member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

If the Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Hearings Panel concludes that the Member did fail to comply with the Code of Conduct, the Chair will inform the Member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the Member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

8. What action can the Hearings Panel take where a Member has failed to comply with the Code of Conduct?

The Authority has delegated to the Hearings Panel such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may –

- a. Publish its findings on the Authority's website;
- b. Censure the Member;
- c. Report its findings to the full Authority for information;
- d. Recommend to full Authority that he/she be removed from any or all Committees or Sub-Committees of the Authority;
- e. Recommend to full Authority that he/she be replaced as Chair of the Authority;
- f. Recommend to full Authority that the Member be removed from a particular Member Representative role;
- g. Recommend to full Authority that the Member be removed from all outside appointments to which he/she has been appointed or nominated by the Authority;
- h. Recommend that the Monitoring Officer arrange training for the Member;

The Hearings Panel has no power to suspend or disqualify the Member or to withdraw Members' basic or special responsibility allowances.

9. What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the Member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take.

Within 10 working days the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the Member, make that decision notice available for public inspection and report the decision to the next convenient full Authority meeting.

Wherever there has been a decision that the subject member has breached the Code of Conduct that decision and the reasons for it shall be put on the Authority's website and sent to the Member's appointing authority and where relevant their Parish Council or Parish Meeting.

Wherever there is a decision that the subject member has not breached the Code of Conduct that decision shall be put on the Authority's website, and sent to the Member's appointing authority and where relevant their Parish Council or Parish Meeting, if the subject member wishes it to be.

10. Who are the Hearings Panel?

The Hearings Panel is a Sub-Committee of the Programmes and Resources Committee. The Authority has decided that it will comprise a maximum of three members of the Authority's Programme and Resources Committee, including at least one Secretary of

State appointee and one Constituent Council member.

The Independent Person is invited to attend all meetings of the Hearings Panel and his/her views are sought and taken into consideration before the Hearings Panel takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the Members of the Authority.

A person cannot be "independent" if he/she –

- 11.1 Is, or has been within the past 5 years, a Member, co-opted Member or officer of the Authority with the exception that former Independent Members of Standards Committees can be appointed as Independent Persons.
- 11.2 Is a relative, or close friend, of a person within paragraph 11.1 above. For this purpose, "relative" means –
 - 11.2.1 Spouse or civil partner;
 - 11.2.2 Living with the other person as husband and wife or as if they were civil partners;
 - 11.2.3 Grandparent of the other person;
 - 11.2.4 A lineal descendent of a grandparent of the other person;
 - 11.2.5 A parent, sibling or child of a person within paragraphs 11.2.1 or 11.2.2;
 - 11.2.6 A spouse or civil partner of a person within paragraphs 11.2.3, 11.2.4 or 11.2.5; or
 - 11.2.7 Living with a person within paragraphs 11.2.3, 11.2.4 or 11.2.5 as husband and wife or as if they were civil partners.

12. Revision of these arrangements

The Authority may by resolution agree to amend these arrangements, and has delegated to the Monitoring Officer in consultation with the Independent Person and the Chair of the Programmes and Resources Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13. Appeals

There is no right of appeal for you as complainant or for the Member against a decision of the Monitoring Officer or of the Hearings Panel. Any decision of the Monitoring Officer or the Hearings Panel shall be final and binding.

Peak District National Park Authority Handbook

Annex One	The Authority's Code of Conduct
Annex Two	The Complaint Form
Annex Three	The Procedure for Considering Complaints that Members have Breached the Code of Conduct
Annex Four	Procedure for Investigations
Annex Five	Guidance for Members subject to an Investigation
Annex Six	Procedure for Hearings

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Peak District National Park Authority
September 2013.