

Peak District National Park Authority – Standards Committee Determinations

Procedures for hearings

Interpretation

- 1 'Member' means the Member of the Authority who is the subject of the allegation being considered by the Programmes and Resources Committee (Hearing Panel) ("the Hearing Panel") unless stated otherwise. It also includes the Member's nominated representative.
- 2 'Investigator' means the Monitoring Officer and includes their nominated representative.
- 3 'Hearing Panel' means the Programmes and Resources Committee (Hearings Panel).
- 4 'Legal Advisor' means the officer responsible for providing advice to the Hearing Panel. This may be the Monitoring Officer, another officer of the Authority, or someone appointed for this purpose from outside the Authority.

The Hearing

- 5 The Authority's Standing Orders "Meetings and Proceedings of the Authority" and the Public Participation Scheme do not apply to hearings.
- 6 Every effort will be made to ensure that the hearing will be held on a date and at a venue that is acceptable to all parties. If the Member chooses not to go to the hearing, the Hearings Panel may make a decision in their absence

Representation

- 7 The Member may be represented or accompanied during the hearing by a solicitor, counsel or, any other person who is not a lawyer, with the permission of the Hearing Panel, however, such permission may be refused if the representative is directly involved in the matter being determined.

Legal advice

- 8 The Hearing Panel 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 Hearing Panel should be shared with the Member and the Investigator if present.

Evidence

- 9 The Hearing Panel may receive evidence orally or in writing. The Hearing Panel controls the procedure and evidence presented at a hearing, including the number of witnesses and the way witnesses are questioned. In many cases, the Hearing Panel may not need to consider any evidence other than the investigation report and any other supporting documents.

Opening the proceedings

- 10 The Chair will open the proceedings by introducing everyone and then explaining how the Hearing Panel will run the hearing.
- 12 The Hearing Panel will decide at the start of the proceedings whether or not to hold the hearing in public and which of the relevant papers will be available for public inspection. In reaching these decisions the Hearing Panel will consider whether there are good reasons to exclude the public from the hearing and access to papers in line with the relevant access to information, data protection and human rights legislation.

Preliminary procedural issues

- 13 The Hearing Panel will resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

Making findings of fact

- 14 After dealing with any preliminary issues, the Hearing Panel will consider whether or not there are any significant disagreements about the facts contained in the Investigator's report.
- 15 If there is no disagreement about the facts, the Hearing Panel will proceed to the next stage of the hearing (Paragraph 24).
- 16 If there is a disagreement, the Investigator, if present, will be invited to make any necessary representations to support the relevant findings of fact in the report. With the Hearing Panel's permission, the Investigator may call any necessary supporting witnesses to give evidence. The Hearing Panel may give the Member an opportunity to challenge any evidence put forward by any witness called by the Investigator.
- 17 The Member will then have the opportunity to make representations to support their version of the facts and, with the Hearing Panel's permission, to call any necessary witnesses to give evidence.
- 18 At any time, the Hearing Panel may question the Investigator, the Member or any of the witnesses, and may allow the Investigator to challenge any evidence put forward by witnesses called by the Member.
- 19 If the Member disagrees with most of the facts, the Investigator will start by making representations on all the relevant facts, instead of discussing each fact individually.
- 20 If the Member disagrees with any relevant fact in the Investigator's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. If the Investigator is not present, the Hearing Panel will consider whether or not it would be in the public interest to continue in his or her absence. :
- 21 After considering the Member's explanation for not raising the issue at an earlier stage, the Hearing Panel may then:
- continue with the hearing, relying on the information in the Investigator's report;
 - allow the Member to make representations about the issue, and invite the Investigator to respond and call any witnesses, as necessary;
 - postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigator to be present if he or she is not already.
- 22 The hearing will then be adjourned so that the Hearing Panel, in consultation with the Independent Person, can consider the representations and evidence in private.
- 23 On the re-opening of the hearing, the Chair will announce the Hearing Panel's findings of fact.

Consideration of a failure to follow the Code of Conduct

- 24 The Hearing Panel will then consider whether or not, based on the facts, it has found that the Member has failed to follow the Code of Conduct.
- 25 The Member will be invited to give relevant reasons why the Hearing Panel should decide that they have not failed to follow the Code.
- 26 The Hearing Panel will then consider any verbal or written representations from the Investigator.
- 27 The Hearing Panel may at any time question anyone on any point they raise in their representations to the hearing.
- 28 The Member will be invited to make any final relevant points.

- 29 The hearing will then be adjourned so that the Hearing Panel, in consultation with the Independent Person who will attend such hearings, can consider the representations in private and reach a decision as to whether there has been a breach of the Code of Conduct.
- 30 On the re-opening of the hearing, the Chair will announce the Hearing Panel's decision as to whether or not the Member has failed to follow the Code of Conduct.

Finding that the Member has not failed to follow the Code of Conduct

- 31 If the Hearing Panel decides that the Member has not failed to follow the Code of Conduct, the Hearing Panel will consider whether it should make any recommendations to the Authority with a view to promoting high standards of conduct among Members.

Finding that the Member has failed to follow the Code of Conduct

- 32 If the Hearing Panel decides that the Member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the Investigator and the Member as to:
- whether the Hearing Panel should apply a sanction;
 - what form any sanction should take.
- 33 The Hearing Panel may question the Investigator and the Member and take advice to make sure they have the information they need in order to make an informed decision.
- 34 The hearing will then be adjourned so that the Hearing Panel can consider in private whether or not to impose a sanction on the Member and if so what sanction should be imposed. Such consideration will be in consultation with the Independent Person whose views should be taken into account.
- 35 On the re-opening of the hearing, the Chair will announce the Hearing Panel's decision.

Recommendations to the Authority

- 36 The Hearing Panel will consider whether it should make any recommendations to the Authority with a view to promoting high standards of conduct among Members.

The written decision

- 37 The Hearing Panel will issue a full written decision within 10 working days of the hearing and supply a copy to the Member, the complainant, and any other authorities concerned.
- 38 The Hearing Panel will arrange for a summary of its decision and the reasons for it to be published on the Authority's website and sent to the Member's appointing authority and where relevant to their Parish Council or Parish Meeting. If the Hearing Panel finds that the Member did not fail to follow the Code the Member can request the Hearing Panel to have this information published on its website.

Appeals

- 39 There is no right of appeal against any decision of the Hearing Panel which shall be final and binding.

Variation of Arrangements

- 40 The Monitoring Officer has delegated power in consultation with the Independent Person and the Chair of the Programmes and Resources Committee to approve a departure from these arrangements when he/she considers it is expedient to do so to secure the effective and fair consideration of any matter.

