YORKSHIRE DALES
National Park Authority

PROCEDURE FOR DETERMINATION OF MEMBER CODE OF CONDUCT

COMPLAINTS

1. Introduction

1.1 Under section 28 of the Localism Act 2011 the Authority must have arrangements in place to determine whether or not a Member has failed to follow the Code of Conduct.

1.2 This Procedure provides a summary of the process for dealing with allegations against Members where an investigation has been completed, the Investigating Officer has found a breach of the Code of Conduct and the Monitoring Officer, having consulted with the Independent Person, sends the matter for hearing before a Hearing Panel of the Standards Committee

1.3 The purpose of the hearing is to decide whether or not a Member has failed to comply with the Code of Conduct and if so, to decide whether or not any sanction should be applied and what form any sanction should take.

2. Definitions

2.1 The following terms are used in this procedure

Authority	Yorkshire Dales National Park Authority
Code of Conduct	the Code of Conduct adopted by the Authority which applies to all Members
Complainant	the person making the complaint
Hearing Panel	a sub-committee of the Standards Committee comprising three members of the Standards Committee, appointed by the Monitoring Officer, who will determine whether the Subject Member has breached the Code Conduct and if so, whether any sanction should be applied
Independent Person	the person appointed by the Authority under section 28(7) of the Localism Act 2011
Investigating Officer	the person appointed by the Monitoring Officer to undertake a formal investigation
Legal Advisor	the officer responsible for providing legal advice to the Hearing Panel. This may be the Monitoring Officer, another qualified legal officer of the Authority or someone

	external to the Authority appointed for the purpose of the hearing
Monitoring Officer	the Authority's statutory officer who oversees the assessment and investigation of complaints against Members under the Code of Conduct with specific responsibility in relation to ethical standards
Standards Committee	the Committee responsible for promoting and maintaining high standards of conduct by Members of the Authority
Subject Member	the Member of the Authority against whom an allegation has been made

3. Pre-hearing Process

3.1 The Monitoring Officer will ensure that the Complainant and the Subject Member have received a copy of the final investigation report. The Monitoring Officer will write to the Subject Member to propose a date for the hearing and provide a copy of this Procedure.

3.2 The Subject Member will be asked to confirm within 14 days whether they:

(i) disagree with any of the findings of fact in the Investigating Officer's report, including the reasons for disagreement;
(ii) will attend the hearing in person;
(iii) want to be represented at the hearing by a solicitor, barrister or any other person[1];
(iv) want to give evidence to the Hearing Panel, either verbally or in writing;
(v) want to call relevant witnesses to give evidence to the Hearing Panel;
(vi) want any part of the hearing to be held in private giving reasons under the relevant category of confidential or exempt information[2];
(vii) want any part of the investigation report or other relevant documents withheld from the public, giving reasons under the relevant category of confidential or exempt information[2].

3.3 Following the response from the Subject Member, the Investigating Officer will be asked to confirm within 14 days whether they:

(i) will be represented at the hearing;
(ii) intend to call relevant witnesses to give evidence to the Hearing Panel;
(iii) want any part of the hearing held in private giving reasons under the relevant category of confidential or exempt information[2];
(iv) want any part of the investigation report or other relevant documents withheld

[1] *The Hearing Panel will normally give permission for people who are not solicitors or barristers to represent the Subject Member but may refuse permission if the representative is directly involved in the matter that the Hearing Panel will determine.*

[2] *Section 100 and Schedule 12A of the Local Government Act 1972 should be referred to for the relevant categories of confidential and exempt information.*

from the public giving reasons under the relevant category of confidential or exempt information[2].

3.4 The Monitoring Officer will use this information to prepare a report for the hearing. This will be sent, along with confirmation of the date, time and place for the hearing, to:

(i) all members of the Hearing Panel;
(ii) the Subject Member and their representative;
(iii) the Complainant;
(iv) the Investigating Officer who will make any necessary arrangements with witnesses; and
(v) the Independent Person.

3.5 If the Subject Member is also a Member of another authority, the Monitoring Officer will send a copy of the report to the other authority if they request it.

3.6 The report prepared by the Monitoring Officer will remain confidential unless and until the Hearing Panel has decided that the hearing will be held in public.

4. Hearing

4.1 The role of the Hearing Panel is to decide factual evidence on the balance of probabilities. The hearing is a formal process, not an open discussion. Hearings are normally held in public unless there are reasons under the Local Government Act 1972 for holding the hearing or any part of the hearing in private.

4.2 If the Subject Member (or appointed representative) is not present, then the Hearing Panel will consider whether to proceed to hear the case and make a decision in their absence, or whether to adjourn the hearing to another time or date.

4.3 The Hearing Panel will elect one of its Members to chair the hearing. At the hearing, the Investigating Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the Subject Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask the Complainant to attend and give evidence to the Hearing Panel.

4.4 The Subject Member will then have an opportunity to give their evidence, to call witnesses and to make representations to the Hearing Panel as to why they consider that they did not fail to comply with the Code of Conduct.

4.5 The Hearing Panel can allow witnesses to be questioned by the Subject Member, or the Investigating Officer (or their representative, including a Solicitor or Barrister), directly or through the Chair. The Hearing Panel can also question witnesses.

4.6 The Independent Person will be invited to attend to observe the hearing. The Hearing Panel will seek the views of the Independent Person and take those views

into account before deliberating in private and making its decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct.

4.7 If the Hearing Panel concludes that the Subject Member did not breach the Code of Conduct, it will dismiss the complaint.

4.8 If the Hearing Panel concludes that the Subject Member did breach the Code of Conduct, the Chair will inform the Subject Member of this finding and the Hearing Panel will then consider what action, if any, the Hearing Panel should take as a result of the Subject Member's failure to comply with the Code of Conduct. In doing this, the Hearing Panel will give the Subject Member an opportunity to make representations to the Hearing Panel and seek the views of the Independent Person and take those into account before making its decision regarding any sanction.

4.9 The Hearing Panel may take legal advice, in private if necessary, from its Legal Adviser at any time during the hearing or while considering the outcome. The Hearing Panel should share the substance of any legal advice given with the Subject Member, the Complainant and the Investigating Officer if they are present.

4.10 The Chair of the Hearing Panel has the right to depart from this procedure, in consultation with the Legal Advisor, at any hearing where they consider that it is expedient to do so to deal with the case fairly and effectively.

5. Sanctions

5.1 If the Hearing Panel decides that the Subject Member has breached the Code of Conduct, it will consider any verbal or written representations from the Investigating Officer and the Subject Member as to whether the Hearing Panel should apply a sanction and what form any sanction should take.

5.2 The Hearing Panel will then deliberate in private to consider whether to impose a sanction on the Subject Member and, if so, the nature of the sanction. When deciding on a sanction, the Hearing Panel should ensure that it is reasonable, proportionate and relevant to the Subject Member's behaviour.

5.3 If the Hearing Panel decides that it should impose a sanction, it may do one or a combination of the following:

(i) Issue a formal censure in writing;

(ii) Publish (in whatever way might be chosen) the fact that the Subject Member has been found to have breached the code of conduct;

(iii) Recommend to the Authority to remove the Subject Member from any Committee or outside body appointment(s);

(iv) Recommend to the Authority to restrict the Subject Member's access to Authority premises, facilities etc. (so long as they are still able to perform their essential role);

(v) Instruct the Monitoring Officer to arrange training for the Subject Member.

5.4 The Hearing Panel has no power to suspend or disqualify the Subject Member nor to withdraw their basic or special responsibility allowances, or to recommend other outcomes.

6. Publication of Decision

6.1 As soon as reasonably practicable after the Hearing Panel, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearing Panel. The decision notice will include a brief statement of facts, the provisions of the Code of Conduct engaged by the allegations, the views of the Independent Person, the reasons for the decision and any sanctions applied.

6.2 A copy of the Decision Notice will be sent to the Complainant, the Subject Member, the Independent Person; and will be published on the Authority's website and reported to the next meeting of the Standards Committee.

7. Appeals

7.1 There is no right of appeal against the decision of the Hearing Panel.

7.2 If the Complainant or Subject Member considers that the Hearing Panel has failed to deal with the complaint properly then they may make a complaint to the Local Government and Social Care Ombudsman:

Website:	www.lgo.org.uk/contact-us: details of submitting a complaint online or by typetalk.
Telephone:	0300 061 0614
Postal Address:	PO Box 4771, Coventry CV4 0EH

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