



## **YORKSHIRE DALES NATIONAL PARK AUTHORITY ARRANGEMENTS FOR PROCESSING CODE OF CONDUCT COMPLAINTS**

### **Introduction**

1. The Localism Act 2011 introduced a new ethical framework for local government. Local Authorities have a duty to promote and maintain standards and have the ability to decide what arrangements they need to put in place to discharge that duty. This procedure sets out the arrangements the Yorkshire Dales National Park Authority has put in place on receipt of a complaint that a member of the Authority has failed to comply with the Authority's Code of Conduct.

### **Definitions**

The following terms are used in this procedure

The Authority	Yorkshire Dales National Park Authority
Complainant	the person making the complaint
Subject of the complaint	the Member of the Authority against whom an allegation has been made.
Independent Person	the Independent Person is a member of the Public who has applied for the post and who has been appointed to that post by the Authority .They are not a Member of the Authority. Under section 28(7) of the Localism Act, 2011 their 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 of the process, or by a Member against whom an allegation has been made. The Authority has adopted a Protocol to ensure that their roles and responsibilities are clearly set out at each stage of the process.
Investigator	the person appointed by the Monitoring Officer to undertake a formal investigation. This may involve the appointment of another senior officer of the Authority, an officer from another local authority or an External Investigator.
Monitoring Officer	the Monitoring Officer is a senior officer of the Authority with specific responsibility for advising the Authority generally and the Standards Committee in particular in relation to ethical standards, legal matters and the Code of Conduct.
Committee	the Standards Committee which consists of five members of the Authority with responsibility for dealing with allegations that a Member of the Authority has failed to comply with the Authority's Code of Conduct and to determine complaints in accordance with the Authority's procedures .When Standards Committee meet there must be at least 3 members of the Committee present of which at least one must be a Secretary of State Member and one must be a local authority Member.

Basic or Special Responsibility Allowance

The Authority approves annually a scheme of payments to Members. The basic allowance relates to attending meetings and other approved duties; the special responsibility allowance is for undertaking particular duties.

## **Code of Conduct**

2. The Authority has adopted a Code of Conduct for Members, which is attached as **Annex A** to these arrangements and available for inspection on the Authority's website and on request from Reception at the Authority's Offices at Yoredale, Bainbridge and Colvend, Grassington. The Code applies to the 25 Members of the Authority and to Independent Persons when appointed to the Advisory Committee. It does not apply to employees of the Authority who are subject to separate arrangements.

## **Procedure for making a complaint**

3. Any allegation of failure to comply with the Code of Conduct must be made in writing (including email or electronic communication of a document) and must be against one or more named Members of the Authority. The allegation should be sent to:

Solicitor and Monitoring Officer, Yorkshire Dales National Park Authority, Yoredale, Bainbridge, Leyburn, North Yorkshire DL8 3EL

E-mail: [legal@yorkshiredales.org.uk](mailto:legal@yorkshiredales.org.uk)

Where possible, the standard complaint form should be used which can be downloaded from the Authority's website, or is available from the Monitoring Officer at the above address.

The Complainant should provide his/her name and a contact address or email address, so that receipt of the complaint may be acknowledged and the Complainant may be kept informed of progress of the complaint. If the Complainant wants to keep their name and address confidential, this needs to be indicated in the space provided on the complaint form, stating reasons for their request, in which case the request will be considered as detailed below. The Authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

## **How the complaint will be dealt with**

4. The Monitoring Officer will acknowledge receipt of the complaint within 5 working days of receiving it, and will keep the Complainant informed of the progress of the complaint. The Monitoring Officer will review every complaint received and, on behalf of the Standards Committee, the Monitoring Officer will:

- a) explain to the Complainant how the complaint will be dealt with;
- b) seek clarification of the complaint, if necessary.

Before doing so the Monitoring Officer may also

- c) seek further information to help reach a decision on the complaint which may include entry in the register of interests, information from Companies House or the land registry, any clarification from the complainant if necessary and other easily obtainable documents.
- d) liaise with the Police if the complaint indicates a failure to declare or register a disclosable pecuniary interest
- e) if applicable, contact the Monitoring Officer of another local authority to inform them of the receipt of a complaint.

### **Telling the Subject of the Complaint**

- 5. Unless the Complainant has asked for their identity to remain confidential and the Monitoring Officer in consultation with the Chairman of the Standards Committee has agreed to the request, the Monitoring Officer will decide whether and when to inform the Subject of the complaint about the allegations.

The letter to the Subject of the complaint acknowledging receipt of the complaint will generally name the Complainant (unless the Complainant has requested confidentiality).

### **Confidentiality**

- 6. As a matter of fairness and natural justice, the Subject of the complaint should know who has complained about them. In exceptional circumstance however the Monitoring Officer, in consultation with the Chairman of the Standards Committee, may grant confidentiality if they are satisfied that the Complainant
  - a) has reasonable grounds for believing that they will be at risk of physical harm or other victimisation or harassment;
  - b) is an officer who works closely with the subject of the complaint and they are afraid of the consequences to their employment or losing their job if their identity is disclosed (the Authority's Confidential Reporting policy provides more information to employees) *or*
  - c) has medical risks supported by medical evidence associated with the disclosure of their identity.

The Monitoring Officer, in consultation with the Chairman of the Committee, will also take into account whether they can deal with the complaint without making the

identity of the Complainant known, and take into account whether investigation of the complaint would require the Complainant's participation. They will balance whether the public interest in taking action on a complaint may outweigh the Complainant's wish to have their identity withheld from the subject of the complaint.

If the Monitoring Officer, in consultation with the Chairman of the Committee, decides to refuse a request for confidentiality they may offer the Complainant the option to withdraw rather than proceed with the complaint and disclose their identity.

### **Withdrawing Complaints**

7. If a Complainant asks to withdraw the complaint prior to the Monitoring Officer or Committee making a decision on it, the Monitoring Officer or Committee will decide whether to grant the request. In making a decision consideration will be given to whether:
  - a) the public interest in taking some action on the complaint outweighs the Complainant's wishes;
  - b) the complaint is such that action can be taken on it without the Complainant's participation;
  - c) an identifiable underlying reason exists for the request to withdraw the complaint,
  - d) and, in particular, whether the Subject of the complaint or another person has put pressure on the Complainant to withdraw the complaint.

### **The Role of the Monitoring Officer**

8. The Monitoring Officer will determine what action to take on a complaint in accordance with the assessment criteria **at Annex B**.

If the Monitoring Officer decides that no action should be taken in respect of the complaint, the Monitoring Officer will give notice in writing of that decision and the reasons for it to the Subject of the complaint and to the Complainant and will aim to send this notice within five working days of the decision.

If the Monitoring Officer has sought the views of the Independent Person prior to deciding that no action should be taken, then the notice of decision should record that the views of the Independent Person have been sought and have been taken into account and, where the decision taken is not in accordance with those views, the decision notice should give reasons. The Monitoring Officer will report on actions taken in relation to complaints to the next meeting of the Standards Committee.

### **The Role of the Independent Person**

9. The Monitoring Officer or the Committee may seek the views of the Independent Person before deciding what action to take, or the Committee may seek his views

before deciding whether to investigate a complaint or at any other stage. The Committee must seek the views of the Independent Person and take them into account before deciding on what action to take on a complaint which they have decided to investigate.

The Subject of a complaint may seek the views of the Independent Person at any stage. The arrangements for contact should be made through the Monitoring Officer. The Complainant may also seek the views of the Independent Person; similarly the arrangements for contact should be made through the Monitoring Officer.

### **Informal Resolution**

10. In appropriate cases, the Monitoring Officer may consider that the matter can be reasonably resolved prior to reporting the matter to the Committee, and may seek to resolve the complaint informally in consultation with the Independent Person, the Chairman of the Standards Committee or the Chairman of the Authority or other Member as appropriate.

Such informal resolution may involve the Subject of a complaint accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the Authority. Where the Subject of a complaint makes a reasonable offer of local resolution, but the Complainant is not willing to accept that offer, the Monitoring Officer will refer the complaint to the Committee and the Committee will take account of this in deciding whether the complaint merits formal investigation.

### **The Committee**

11. The Monitoring Officer may require a meeting of the Committee to be convened. In advance of the meeting the Monitoring Officer will send a report to the members of the Committee setting out the relevant paragraphs of the Code of Conduct and a summary of the key aspects of the complaint. In referring to the relevant paragraphs of the Code, the Monitoring Officer will include those paragraphs of the Code that could apply even if the Complainant has not referred to those paragraphs.

Members of the Committee will not discuss complaints with any other Members of the Authority bearing in mind the need for members of the Committee to remain impartial and avoid any appearance of bias and/or pre-determination.

Matters considered by the Committee are subject to the requirements on confidentiality and exempt information in accordance with the Data Protection Act 2018, Freedom of Information Act 2000, and the Local Government Act 1972 .

### **The decision of the Committee**

12. The consideration of a complaint by the Committee at this initial stage aims to determine whether, in the light of the Authority's criteria for assessing allegations, the allegation merits investigation or some other form of action. It is imperative to

understand that the Committee is *not charged with deciding whether there has been a breach of the Code of Conduct* but rather whether the allegation merits investigation or some other form of action. It is essential also to be aware that the Committee will not make any findings of fact.

The Committee can decide

- a) to take no action in respect of the complaint
- b) that seeking local resolution to the complaint is more appropriate
- c) that the complaint should be subject to a formal investigation.

### **Decision to take no action**

13. If the Committee decides to take no action on the complaint, the Monitoring Officer will write to both to the Complainant and the Subject of the complaint within 10 working days of the date of the meeting of the Committee to confirm the decision and the reason for it.

### **Local Resolution**

14. Whilst formal investigation is sometimes necessary, the Committee may seek at this stage in the process to reach local resolution on a complaint to avoid a formal costly investigation and to deal more rapidly and effectively with the complaint. The Committee may ask the Monitoring Officer to seek to agree what the Complainant considers will result in a fair resolution and also help to ensure higher standards of conduct for the future. This may include;
- a) arranging for the Subject of the complaint to undertake training;
  - b) arranging for the Subject of the complaint and the Complainant to engage in a process of conciliation or mediation;
  - c) arranging for the taking of such other steps as appear appropriate to the Committee including the Subject of the complaint accepting his/ her conduct is unacceptable and offering an apology and/or other remedial action.

Local resolution is at the discretion of the Committee. Where the Committee is minded to see whether the allegation can be dealt with by local resolution, it may choose to adjourn pending written confirmation that the Subject of the complaint (and, if appropriate the Complainant) would co-operate in that process.

The Committee may authorise the Monitoring Officer to write to the Subject of the complaint and the Complainant confirming the decision. Within 3 months the Monitoring Officer shall report to the Committee giving details of the action taken.

If the Committee is not satisfied with the action recommended by the Monitoring Officer, it may take any of the courses of action set out in (a) (b) and (c) above. If it is satisfied, it shall give written notice to that effect to the Complainant and to the Subject of the complaint.

### **Decision to investigate a complaint**

15. If the Committee, having consulted the Independent Person, decides to investigate the complaint, the Monitoring Officer will write to confirm the decision and the reasons for it. The Monitoring Officer will inform the Subject of the complaint and the Complainant within 10 working days.

In exceptional circumstances, the Monitoring Officer may decide not to give the Subject of the complaint details of the complaint if they consider that so doing may be against the public interest or would prejudice any future investigation. This could arise if the Subject of the complaint may intimidate the Complainant or any witnesses involved or if early disclosure of the complaint may lead to evidence being compromised or destroyed.

### **How is the investigation conducted?**

16. If the Standards Committee decides that a complaint merits formal investigation and refers the complaint to the Monitoring Officer for formal investigation, he/she will appoint an Investigating Officer. The Investigating Officer will decide whether he/she needs to meet or speak to the Complainant to understand the nature of the complaint and so that the Complainant can explain their understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Standards Committee has adopted guidance for conducting an investigation which is at **Annex C**.

The Investigating Officer would normally write to the Subject of the complaint and provide him/her with a copy of the complaint, and ask the Subject of the complaint to provide his/her explanation of events, and to identify what documents he/she needs to see and who he/she needs to interview. In exceptional cases, where it is appropriate to keep the identity of the complainant confidential or disclosure of details of the complaint to the Subject of the complaint might prejudice the investigation, the Monitoring Officer can delete the Complainant's name and address from the papers given to the Member, or delay notifying the Subject of the complaint 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 the Complainant and to the Subject of the complaint to give both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration.

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

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

17. The Monitoring Officer will review the Investigating Officer's report and, if he/she is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer in consultation with the Independent Person will write to the Complainant and to the Subject of the complaint notifying them that he/she is satisfied that no further action is required, and providing both with a copy of the Investigating Officer's final report. If the Monitoring Officer in consultation with the Independent Person is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report.

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

18. The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Committee or, after consulting the Independent Person, seek local resolution.

### **Local Resolution**

19. The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with the Complainant, and seek to agree what is considered to be a fair resolution which also helps to ensure higher standards of conduct for the future.

Such resolution may include the Subject of the complaint accepting that his/her conduct was in breach of the code of conduct and offering an apology, and/or other remedial action by the Authority. If the Subject of the complaint complies with the suggested resolution, the Monitoring Officer will report the matter to the Committee but will take no further action. However, if the Monitoring Officer is informed by the Complainant that any suggested resolution would not be adequate, the Monitoring Officer will then determine in consultation with the Independent Person whether to refer the matter to the Standards Committee for a hearing.

### **Hearing of the Committee**

20. If the Monitoring Officer considers that local resolution is not appropriate, or the Subject of the complaint is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Committee which will conduct a local hearing before deciding whether the Subject of the complaint has breached 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 D** to these arrangements. The following is a summary of the procedure:

The Monitoring Officer will conduct a “pre-hearing process”, requiring the Subject of the complaint 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 Chairman of the Committee 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 Subject of the complaint has breached the Code of Conduct. For this purpose, the Investigating Officer may ask the Complainant to attend and give evidence to the Committee. The Subject of the complaint will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Committee as to why he/she considers that he/she did not breach the Code of Conduct.

The Committee, with the benefit of any advice from the Independent Person, may conclude that the Subject of the complaint did not breach the Code of Conduct, and so dismiss the complaint. If the Committee concludes that the Subject of the Complaint did breach the Code of Conduct, the Chairman will inform the Subject of the complaint of this finding and the Committee will then consider what action, if any, the Committee should take as a result of the Subject of the complaint’s breach of the Code of Conduct. In doing this, the Committee will give the Subject of the Complaint an opportunity to make representations to the Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

The Independent Person’s views should be recorded in any decision notice and, where those views do not reflect the final outcome, reasons must be given for any differences. However the decision is that of the Committee and not the Independent Person.

### **What action can the Committee take where a Member has breached the Code of Conduct?**

21. The Authority has delegated to the Committee 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 if the Committee decides that the Subject of the complaint has breached the Code, it will consider whether it wishes to make any recommendations to the Authority arising from the hearing. The possible sanctions are:
  - a) Censure;
  - b) Publication (in whatever way might be chosen) of the fact that the Subject of the complaint has been found to have breached the Code of Conduct;

- c) Recommendation to the Authority to remove the Subject of the complaint from any Committee or outside body appointment(s);
- d) Recommendation to the Authority to restrict the Subject of the complaint's access to Authority premises, facilities etc (so long as they are still able to perform their essential role);
- e) Undertake training

The Committee has no power to suspend or disqualify the Member, or to withdraw their Basic or Special Responsibility Allowances.

## **What happens at the end of the hearing?**

22. At the end of the hearing, the Chairman will state the decision of the Committee as to whether the Subject of the Complaint breached the Code of Conduct and as to any actions which the Committee resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Committee, and send a copy to the Subject of the complaint; and make that decision notice available for public inspection; and report the decision to the next convenient meeting of the Authority.

The Independent Person will be invited to attend all meetings of the Committee, and his/her views are sought and taken into consideration before the Committee takes any decision on whether the Member's conduct constitutes a breach the Authority's Code of Conduct, and as to any action to be taken following a finding of breach of the Code of Conduct.

## **Revision of these arrangements**

23. The Monitoring Officer has delegated authority to make minor amendments to the arrangements. The Authority has delegated authority to the Standards Committee the right to depart from these arrangements where the Committee considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **Appeals**

24. There is no internal right of appeal against a decision of the Monitoring Officer or of the Standards Committee

If the complainant or Subject of the complaint considers that the Authority has failed to deal with their complaint properly then they may make a complaint to the Local Government Ombudsman:

Website: [www.lgo.org.uk/contact-us](http://www.lgo.org.uk/contact-us): details of submitting a complaint online or by typetalk.  
Telephone: 0300 061 0614: lines open Mon-Fri 8.30am to 5pm  
Text: Text "call back" to 0762 481 1595  
Postal Address: PO Box 4771, Coventry CV4 0EH

Annex A Code of Conduct  
Annex B Criteria for Assessing Complaints  
Annex C Procedure for Investigations  
Annex D Procedure for Hearings

Adopted: June 2015

Due for Review: June 2020.