

NEW FOREST NATIONAL PARK AUTHORITY

AUTHORITY MEETING – 21 SEPTEMBER 2006

REPORT FROM THE STANDARDS COMMITTEE - PROCEDURES FOR DEALING WITH ALLEGED BREACHES OF A LOCAL PROTOCOL AND COMPLAINTS

Report by: Jerry Giltrow, Committee Chairman
Lindsay Cornish, Chief Executive
Kevin Gardner, Monitoring Officer

Summary:

This report contains recommendations from the Standards Committee on:

- a) procedures for dealing with alleged breaches of a New Forest National Park Authority local protocol;
- b) procedures for dealing with comments and complaints about the Authority's performance, set out in the information leaflet at **Annex 1**.

Recommendations:

1. That the procedures for dealing with alleged breaches of a local protocol described in the report be approved.
2. That the outline procedures for dealing with complaints about the Authority's services or staff and the draft Comments and Complaints Guidance and Feedback form at Annex 1 be approved.

Resources:

Processing and monitoring complaints, providing advice and assistance to the Monitoring Officer in connection with alleged breaches of Authority protocols, and the administration of hearings, will require additional resources but these cannot be predicted.

Papers:

NFNPA 124/06: Cover paper
NFNPA 124/06: Annex 1: Comments and Complaints Information Leaflet;
Customer Feedback form

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PROCEDURES FOR DEALING WITH ALLEGED BREACHES OF A LOCAL PROTOCOL

1 Introduction

- 1.1 This report describes how alleged breaches of a New Forest National Park Authority local protocol by a member will be handled. The proposed procedures have been reviewed by the Standards Committee and approved with some minor amendments, which have been incorporated into this report.
- 1.2 Procedures for dealing with alleged breaches of the Authority's local protocols covering Member and officer relations (NFNPA 65/06 Annex 1) and planning matters (NFNPA 65/06 Annex 2) are not subject to control under the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003. Hence there is more flexibility available to the Authority on the procedures it may adopt for dealing with allegations of breaches of these protocols. The aim of the procedures is to deal with alleged breaches in the most cost-effective manner, minimising any impact on the Authority's resources, whilst ensuring not only that the process is fair, open and just, but also that the interested parties perceive this to be so.

2 Role of the Monitoring Officer

- 2.1 The Monitoring Officer is central to the administration of any response to allegations of breaches of the Authority's protocols, both in terms of utilising resources effectively and ensuring the impartiality of the process.
- 2.2 Monitoring Officers need to be aware of the potential conflicts involved in advising the Standards Committee and advising Members.
- 2.3 It is important that Standards Committees receive high quality, independent advice. The Standards Board has therefore recommended that the Monitoring Officer should be the main advisor to the Standards Committee,

unless the Monitoring Officer has an interest in the matter that would prevent him or her from performing this role independently. If this situation arises, the Monitoring Officer will arrange for the Deputy Monitoring Officer to advise the Standards Committee.

2.4 In advising the Standards Committee, the Monitoring Officer or other legal advisor's role is to:

- make sure that members of the Standards Committee understand their powers and procedures;
- make sure that the determination procedure is fair and will allow the allegation to be dealt with as efficiently and effectively as possible;
- make sure that the Member about whom the allegation has been made understands the procedures the Standards Committee will follow;
- provide legal and procedural advice to the Standards Committee during the hearing and the deliberations; and
- help the Standards Committee produce a written decision and a summary of that decision.

3 Action on receipt of a complaint about a member

3.1 A complaint that a Member of the Authority has breached any Authority local protocol may be made by another Member, a member of the public or by a member of staff. Such complaints may be directed to a Member of the Authority, or an officer of the Authority. Whichever is the case, the recipient will immediately refer the complaint to the Authority's Monitoring Officer.

4 Initial considerations

The first sift

4.1 The first sift comprises the following steps:

- a) The Monitoring Officer will first refer complaints to the Chief Executive or other senior manager authorised by her, who will assess complaints to identify any which may be vexatious or trivial, or which - on the basis of information provided by the complainant - could not constitute a breach of the protocol. This will preserve the Monitoring Officer's ability to provide legal advice at any subsequent consideration of cases that may be necessary.
- b) Where a complaint is held to be trivial or vexatious, the complainant will be informed of the decision and the reasons for it.
- c) If the complaint is dismissed at this initial stage, the Member who was the subject of the complaint will be told about the allegation. The Monitoring Officer will keep a record of the complaint and the action and keep the Standards Committee informed.

Evidence of a breach of the Code of Conduct

4.2 At the other end of the scale, the Chief Executive may consider that there is prima facie evidence of a breach of the Members' Code of Conduct. In this

case, having consulted the Monitoring Officer, the complainant will be advised that the matter falls within the sole jurisdiction of the Standards Board for England, and that if the complainant wishes to pursue the matter, they should refer it to the Standards Board.

Protocol breaches

4.3 Resolution can be achieved in one of two ways:

Resolution by discussion

4.3.1 Where there is no indication of a breach of the Members' Code of Conduct, the Chief Executive will consider whether the situation might be resolved by discussion with or between the complainant (and the complainant's line manager where the complainant is a staff member of the Authority), the Member concerned, the Chief Executive and, where the Chief Executive considers it necessary, the Chairman of the Authority. The Authority Protocol for Member and Officer Relations (NFNPA 65/06 Annex 1) provides some guidance here. Where this course of action is taken, those concerned will be informed at the earliest opportunity. The Standards Committee will again only be informed in general terms at this stage.

4.3.2 In cases where resolution of the matter can be achieved by the above type of discussion the Standards Committee will be informed about the details of the case and any actions arising which are considered necessary to avoid a recurrence of the matter giving rise to the complaint.

4.3.3 The Standards Committee will consider, in the light of such cases as occur under this section, any possible need for more general action. For instance, if misunderstandings of what is required under the protocol played a part in the breach, the Monitoring Officer may make proposals to the Standards Committee about the need for clarification of the protocol or additional training for the Member or for Members generally. Alternatively, if the Monitoring Officer considers that the case reveals shortcomings in the Authority's protocols, the Standards Committee will consider what remedial measures to put in place.

Resolution by follow-up

4.3.4 Where resolution of the complaint by discussion is not possible, action will need to be taken to ascertain the facts surrounding the complaint and to take appropriate measures to redress the situation where necessary. Such action can be extremely resource intensive. The approach to be adopted will therefore aim to keep the resource demands to the minimum, whilst ensuring that those concerned see the process as fair, open and just.

4.3.5 The first step will be for the complainant to be provided with a copy of this paper, as guidance on the form of subsequent procedures. The complainant will then be asked by the Monitoring Officer to provide

documentary information and evidence about the complaint within two weeks, including any corroboration by witnesses, and to make the complaint as specific as possible as regards the breach alleged. The Monitoring Officer will make it clear to the complainant that the evidence will be made available to the Member involved for comment, and to the Standards Committee, and that it may end up in the public arena.

- 4.3.6 At this stage, the Monitoring Officer will inform the Standards Committee on a confidential basis, without mention of the names of the parties involved. Committee members will not try to find out more details of the complaint on their own initiative, not least because this would prejudice their position at any subsequent hearing. The Monitoring Officer will also inform the Member concerned that a complaint has been made, and that the complainant has been asked to provide information and evidence which will be copied to the Member when available.
- 4.3.7 On receipt of the complainant's documentation, it will be copied to the Member concerned by the Monitoring Officer as soon as practicable after receipt, together with a copy of this report, so that the Member too knows what to expect as regards the procedures to be followed. The Member will be asked to respond to the complaint in writing within two weeks, and to provide the Monitoring Officer with whatever relevant documentation and evidence, including any available corroboration by witnesses, he or she considers appropriate.
- 4.3.8 If the Member being complained about refuses to cooperate with the Monitoring Officer's request, the Monitoring Officer will have no power to require the necessary cooperation to complete an acceptable response. In these circumstances, the matter will be referred to the Standards Committee for consideration in the light of the evidence provided by the complainant alone.
- 4.3.9 In extreme circumstances, the nature of a refusal to cooperate might constitute a breach of the Code of Conduct for example in relation to the provisions about respect for others (para 2.1 of the Code) or as regards bringing the Authority into disrepute (para 2.3 of the Code). Here, the matter might be referred to the Standards Board, where continued refusal to cooperate with its investigation without reasonable excuse would be an offence.

5 Action when all documentation is available

- 5.1 When all the relevant documentation is available, all Standards Committee members will be provided with a copy of the papers collated by the Monitoring Officer, together with advice as appropriate from the Monitoring Officer regarding the complaint. A hearing by the Standards Committee will then be held to consider the information and decide whether the evidence indicates there had been a failure to comply with the protocol. The hearing will take place within two months of the receipt of the parties' information at a time and date suitable for both complainant and the Member concerned. It will normally be in public unless the information to be considered meets an exemption under access to information legislation. Wherever possible, the full

Committee will participate in the hearing; in the absence of the Chairman, the other Independent Member will take the Chair. The minimum number of Committee members to constitute a quorum will be three.

- 5.2 The complainant will first be given the opportunity to present evidence, including any evidence from witnesses, or to have the evidence presented by a representative, provided the representative was not involved in the matter of the complaint. The Member concerned or his/her representative will then be given the opportunity to question the complainant, any of the complainant's witnesses and the complainant's representative, after which the Committee members may put questions to the complainant, any witness and the complainant's representative.
- 5.3 The Member concerned will then be given an opportunity to present evidence, including that of witnesses, or to have the evidence presented by a representative, provided the representative was not involved in the matter of the complaint. The complainant (or representative) will then be able to question the Member, any witness for the Member and the other representative concerned, after which the same opportunity will be afforded to Committee members.
- 5.4 Any use of a representative by any party will be at that party's cost. The Committee will not tolerate disruptive behaviour by a representative, witness or any party to the hearing. The Committee will reserve the right to limit the number of witnesses if it considers the number to be unreasonable.
- 5.5 If either of the parties fails to attend the hearing, having previously indicated an intention to attend, the Committee will continue with the hearing unless it is satisfied that there is good reason for the failure to attend. In these circumstances, the hearing may be adjourned.
- 5.6 When all the evidence has been heard, the Committee - together with its legal advisor - will adjourn to consider its findings in private. Having reached a decision, whether unanimously or by majority, the Committee will announce in public its decision, the underlying reasons and any recommendations it intends to make to the Authority.

6 Action when a decision has been reached

- 6.1 Where the Standards Committee finds that there has been no breach of the protocol, there may be no need for further action. Nevertheless, the Standards Committee may still consider whether it wishes to make any recommendations to the Authority on matters arising from the complaint such as clarification of the protocol or additional training generally, or as regards any perceived systemic weakness in the Authority's protocols.
- 6.2 Where the Standards Committee concludes that a breach of the protocol has occurred, it may make recommendations to the Authority for action. In the case of more serious breaches, the Committee may recommend that the Member be censured; the Committee might also recommend training or re-training, or the rectification of any weakness in the Authority's protocols. The Authority might also consider the need for conciliation procedures in some cases.
- 6.3 The Standards Committee will also consider any need for publicity and make appropriate recommendations to the Authority. Where a Member against

whom a complaint is made is found not to have breached the protocol, that Member will have the right to require that no publicity should ensue.

- 6.4 The Monitoring Officer will keep a case file of the hearing, including the associated papers and a brief written record of the findings of the Standards Committee, the underlying reasons for the decision and any recommendations made to the Authority.

7 Resource Implications

- 7.1 Any complaint will carry resource implications for the Chief Executive and the Monitoring Officer in particular. The Authority will also need to provide advice and assistance to the Monitoring Officer; this, and the administration of hearings, will lead to additional resource costs. It is not possible for these to be predicted.

Recommendation 1:

That the procedures for dealing with alleged breaches of a local protocol described in the report be approved.

PROCEDURES FOR DEALING WITH COMPLAINTS ABOUT THE AUTHORITY'S STAFF OR SERVICES

8 Introduction

- 8.1 The Standards Committee also considered and supported a draft Comments and Complaints leaflet (**Annex 1**) which summarises the procedures to be followed for dealing with complaints about the Services of the Authority or the actions of a member of staff. Input for this leaflet has been drawn from existing practices as well as from the complaints procedures of other national park authorities.

9 The complaints procedure

- 9.1 The complaints procedure comprises a three stage process:
- a) Stage 1 - informal discussion with the officer concerned and/or his or her line manager
 - b) Stage 2 - if the complainant is not satisfied with stage 1 or proceeds direct to a formal complaint, a formal investigation will be conducted by the Director or senior officer of the relevant department who will, unless an interim response is necessary, respond fully to the complaint within 20 working days of receipt
 - c) Stage 3 – if the complainant is still not satisfied, a review will be carried out by the Chief Executive.
- 9.2 A complaint which moves to or is received as a Stage 2 (formal) complaint, requires the complainant to complete the customer feedback form attached to the leaflet (these will be made available in the reception area, other relevant

locations and on the Authority's intranet and website) or a letter setting out the details of the complaint.

- 9.3 In addition to setting out the procedure for submitting a complaint against staff/services of the Authority, the guidance leaflet also includes information on what action can be taken in respect of complaints against members of the Authority (both Code of Conduct and breaches of Authority local protocols).
- 9.4 The Management Board of the Authority has also considered and approved the Comments and Complaints leaflet and Customer Feedback form.
- 9.5 Amendments requested by the Standards Committee and Management Board have been included in the current draft.

Recommendation 2:

That the outline procedures for dealing with complaints about the Authority's services or staff and the draft Comments and Complaints Guidance and Feedback form at Annex 1 be approved.

New Forest National Park Authority



Comments and Complaints

Why complain?

We aim to deliver high quality and efficient services. We are always trying to do better and welcome your feedback. It is important because it helps us build on strengths and learn from mistakes. If things go wrong we want to rectify the problem as fairly and quickly as possible. When things go well, we appreciate compliments and suggestions.

A complaint is an expression of dissatisfaction by any one or more members of the public about the Authority's action or lack of action or about the standard of service. This applies whether the action was taken or the service was provided by the Authority itself or a person or body acting on behalf of the Authority.

Our complaints procedure is not a review or appeal procedure for you to challenge the merits of decisions. Neither is it a way to ask for a review of a decision which goes against you.

Your comments and suggestions let us know if we have gone wrong, or can improve our service. They also help us to monitor any improvements we make.

It assists us to deal with your complaints or comments if you contact us within four weeks of the relevant incident, if possible.

How do I request an explanation?

If you wish simply to request an explanation for an action that the Authority has taken, or to comment on the service you have received from the Authority, you can contact the Authority in the ways set out below.

You can call the Authority on 01590 646600 and request to be put through to the relevant service, or alternatively write to:

New Forest National Park Authority
South Efford House
Milford Road
Lymington
SO41 6JD

Email: enquiries@newforestnpa.gov.uk
Fax: 01590 646666

How do I make a complaint?

The Authority operates a three stage complaints procedure to ensure complaints are dealt with impartially, objectively and professionally.

Stage One: Informal complaints

If your complaint is about a member of staff, why not talk to him or her directly? You may find that the matter can easily be resolved. Alternatively, you may prefer to talk to their manager.

Stage Two: Formal complaints

If it is not possible to settle the complaint informally, or you do not wish to do so, please complete and return the attached customer feedback form to the address provided. Your complaint will be recorded and referred to the Director or a senior officer of the relevant service who will investigate the matter. We will normally acknowledge receipt of your written complaint within five working days and let you know the name of the person who is dealing with it. The Director or senior officer of the relevant service will respond to you personally within 20 working days or send an interim response if it is likely to take longer.

Please set out your complaint as fully and clearly as possible, including the name of the relevant member of staff and the date of the incident you are complaining about, if known. You can ask someone to help you.

Directorate and unit heads are listed below. Should you require the name of a director or the head of a specific service, please contact the officer dealing with complaints on telephone 01590 646646, the web based version of this form also contains details of directors and service heads.

Directorate/Service

Director of Understanding and Enjoyment

Director of Corporate Services

Director of Conservation and Enhancement

Director of Strategy and Planning

Head of Communications

Head of Member Services

Stage Three: Referral to Chief Executive

If you have gone through the formal complaints procedure described in Stage two above and you are not satisfied with the results of the investigation, you may ask for your complaint to be forwarded to the Chief Executive Officer of the Authority for review, or, if the complaint involves the Chief Executive, to the Monitoring Officer or other person authorised by him. You will receive a response within 20 days of your request.

Who will see my complaint?

All comments and complaints are treated in confidence and will not disadvantage you in any future dealings you might have with the Authority.

However, it may not always be possible to keep your details confidential, such as where allegations are made concerning the conduct of third parties, or where particular legislation applies to your complaint.

What happens next?

The Authority wants to improve its service and resolve problems as quickly as possible.

If your complaint is upheld:

- you will receive a written apology; and
- an explanation of any redress and any steps to prevent a similar problem recurring.

This step concludes our complaints procedure.

What if I'm still not satisfied?

Most of the time, we hope your complaint will be resolved to your satisfaction. If that is not the case, you may refer your complaint to the Local Government Ombudsman. You may contact the Ombudsman at any time, but he recommends that you use the complaints procedure first.

The Ombudsman investigates complaints of maladministration. This usually means that we have done something we should not have done, done something the wrong way or failed to do something we should have done. The Ombudsman will not investigate the Authority's actions solely because you do not agree with a decision the Authority has made.

You can contact the Ombudsman at:

Local Government Ombudsman
Commission for Local Administration in England
The Oaks No 2, Westwood Way
Westwood Business Park
Coventry, CV4 8JB

Phone: 024 7682 0000

Fax: 024 7682 0001

Website: www.lgo.org.uk

What if I have an objection to a decision made by the Authority?

Objections to the merits of decisions that the Authority has made, including those on planning matters, will not be dealt with under the complaints procedure described in this leaflet. However, if you feel that the procedure or process followed in reaching a decision was incorrect or unfair, you may wish to lodge a complaint on this basis.

What if I wish to complain about a Member's conduct?

Complaint that a Member has breached the Authority's Code of Conduct

Complaints that a Member has breached the Authority's Code of Conduct for Members will not be dealt with under the complaints procedure. These should be referred directly to the Standards Board for England.

You can contact the Board at:

The Standards Board for England
1st Floor, Cottons Centre
Cottons Lane
London SE1 2QG

Phone: 0800 107 2001

Website: www.standardsboard.co.uk

Complaint that a Member has breached one of the Authority's Local Protocols

The Authority has adopted a number of local protocols which regulate various aspects such as the working relationship between Members and officers of the Authority and the protocol for Members of the Planning Development Control Committee when dealing with planning matters. Complaints that a member has not acted in accordance with a local protocol must be in writing and may be directed to a Member or an officer of the Authority. The recipient will immediately refer the complaint to the Authority's Monitoring Officer who is responsible for monitoring the conduct of Members of the Authority. The Monitoring Officer will contact you in due course.

A full description of the procedure the Authority will follow on an alleged breach of a protocol by a member is set out in the Authority's guidance on this subject, which is available on request.



CUSTOMER FEEDBACK FORM

September 2006

CUSTOMER FEEDBACK FORM

Please complete this form using block capitals.
Fields marked * are mandatory.

- *This is a: **Compliment**
 Comment
 Complaint

*Title: Mr Mrs Miss Ms Other

*First Name:.....

*Surname:.....

*House No./ Name:

Street:

Town:.....

County:.....

*Postcode:.....

Telephone (day):.....

Email:.....

Date (dd/mm/yy): //

Has your concern been reported before?
(for complaints only)

- Yes No

If yes, when? //

*What service do you wish to refer to?
.....

***Details of compliment/comment/complaint**
(Please include names of staff and dates if known)

.....
.....
.....
.....
.....
.....
.....

***What do you think the Authority should do to put things right? (for complaints only)**

.....
.....
.....
.....
.....

***Your signature:**

.....

Please return this form to:

**Member Services
National Park Authority
South Efford House
Milford Road,
Lymington
SO41 6JD**

Ref. No.:(for office use only)

Monitoring Equal Opportunities (it is not mandatory for you to complete this section)

The following information will be used purely for statistical purposes to ensure that everyone is treated fairly. Please help us to do this by ticking the boxes that best describe your ethnic origin (all information is confidential and will not be passed to officers investigating a complaint)

White:

- British Irish Other white

Asian or Asian British:

- Indian Bangladeshi

- Pakistani Other Asian

Black or Black British:

- Black Caribbean Black African

- Other Black

Mixed:

- White & Black Caribbean

- White & Black African

- White & Asian Other Mixed

Chinese or other ethnic group:

- Chinese Other ethnic group

I have a disability (a disability is a physical or mental impairment which has a substantial and long term adverse effect on a person's ability to carry out normal day to day activities):

- Yes No

My age range is: under 18 18-24

- 25-34 35-49 50-65 Over 65

*Please tick to confirm that you are happy for us to store this information

