

NEW FOREST NATIONAL PARK AUTHORITY

AUTHORITY MEETING – 11 DECEMBER 2008

PROCEDURES FOR ASSESSMENT, INVESTIGATION AND DETERMINATION OF A COMPLAINT THAT A MEMBER HAS FAILED TO COMPLY WITH A LOCAL PROTOCOL

1. Application of these procedures

- 1.1 These are the procedures to be followed by the Standards Committee of the New Forest National Park Authority in the assessment, investigation and determination of a complaint that any member of the Authority has failed to comply with the Authority's "Local Protocol for Members and Officers dealing with Planning Matters" or "Protocol for Member and Officer Relations" (together referred to in these procedures as the "Local Protocol"). The procedures are modelled on those which apply to alleged failures to comply with the Member's Code of Conduct. This is to ensure consistency and efficiency in the handling and determination of complaints about the conduct of members.

2. Receipt of complaint

- 2.1 A complaint shall be made in writing addressed to Independent Chairman, Standards Committee, c/o Member Services, New Forest National Park Authority, South Efford House, Milford Road, Lymington SO41 0JD. The Complaint Form at Appendix 1 shall be used for this purpose. A completed Complaint Form may be submitted electronically or by email by following the instructions on the Authority's website.
- 2.2 On receipt of a complaint, it shall be passed by Member Services to the Monitoring Officer, who shall inform the Chief Executive that a complaint has been received.
- 2.3 Anonymous complaints will not normally be considered unless the complaint is accompanied by documentary or photographic evidence indicating an exceptionally serious or significant matter.

3. Convening of meeting of the Standards Assessment Sub-Committee

- 3.1 In consultation with the Chairman, the Monitoring Officer shall appoint, and convene a meeting of, the Standards Assessment Sub-Committee, from amongst the members of the Standards Committee, any Deputy members and any additional Independent members appointed in accordance with the Standards Committee's terms of reference, provided that at all times the composition of the Sub-Committee complies with Paragraphs 3.2.
- 3.2 The Standards Assessment Sub-Committee shall include one local authority appointed member of the Authority, and one Secretary of State appointed

member of the Authority. The Sub-Committee shall be chaired by an Independent member.

- 3.3 The meeting shall normally take place within 20 working days of the date of receipt of the complaint.

4. Notification to member

- 4.1 The Monitoring Officer shall provide the member who is the subject of the allegation with written notification that a complaint has been made, the name of the complainant (unless the complainant has requested confidentiality in section 6 of the Complaint Form) and the relevant paragraphs of the Local Protocol that may have been breached. The notification shall state that a written summary of the allegation can only be provided once the Standards Assessment Sub-Committee has met to consider the complaint, and the date of this meeting, if known.

5. Terms of Reference of Standards Assessment Sub-Committee

- 5.1 The Standards Assessment Sub-Committee is established to receive allegations that a member of the Authority has failed to comply with the Authority's Local Protocol.
- 5.2 Upon receipt of each allegation and any accompanying report by the Monitoring Officer, the Sub-Committee shall make an initial assessment of the allegation to see if it falls within the Authority's jurisdiction and shall then do one of the following:
- 5.2.1 Refer the allegation to the Monitoring Officer with an instruction that he/she arrange a formal investigation of the allegation or (after consultation with the Monitoring Officer) directing that he/she arrange training, conciliation or such other appropriate alternative steps; or
- 5.2.2 Decide that no action should be taken in respect of the allegation; or
- 5.2.3 Where the allegation is in respect of a person who is no longer a member of the Authority but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000) refer the allegation to the Monitoring Officer of that other Authority.
- 5.3 In reaching its decision, the Sub-Committee shall have regard to the Local Assessment Criteria in Appendix 2.
- 5.4 The Standards Assessment Sub-Committee shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation, and the member the subject of it, of that decision. Where the decision is that no action should be taken, reasons for the decision shall be given, and reference made to the right to request a review of that decision under Paragraph 6 below. This notification shall normally be given within five working days of the decision being made.
- 5.5 The notification to the member concerned under Paragraph 5.4 shall include the name of the complainant and a written summary of the allegation, unless the Sub-Committee determines that to do so would be contrary to the public interest or would prejudice any person's ability to investigate the allegation.

- 5.6 When a matter is referred to the Monitoring Officer for investigation or other action, it does not mean that the Sub-Committee has made up its mind about the allegation. The Sub-Committee makes no findings of fact on the matter. It simply means that the Sub-Committee believes the alleged conduct, if proven, may amount to a failure to comply with the Local Protocol, and that some action should be taken in response to the complaint.

6. Right to request a review

- 6.1 Where a decision is made by the Standards Assessment Sub-Committee that no action should be taken in respect of the allegation, the person who made the allegation may make a request for that decision to be reviewed. The request shall be made in writing addressed to the Independent Chairman, Standards Committee, c/o Member Services, New Forest National Park Authority, South Efford House, Milford Road, Lymington SO41 0JD. The request must be received within 30 days of notification being given under Para 5.3 above.
- 6.2 On receipt of a request for review, it shall be passed by Member Services to the Monitoring Officer.

7. Convening of meeting of the Standards Review Sub-Committee

- 7.1 In consultation with the Chairman, the Monitoring Officer shall appoint, and convene a meeting of, the Standards Review Sub-Committee, from amongst the members of the Standards Committee, any Deputy members and any additional Independent members appointed in accordance with the Standards Committee's terms of reference, provided that at all times the composition of the Sub-Committee complies with Paragraphs 7.2 and 7.3. The meeting shall take place within 20 working days of the date of receipt of the request for review, where practicable, and certainly within a maximum of three months from that date.
- 7.2 The Standards Review Sub-Committee shall include one local authority appointed member of the Authority, and one Secretary of State appointed member of the Authority. The Sub-Committee shall be chaired by an Independent member.
- 7.3 The Standards Review Sub-Committee shall not include any member who was a member of the Standards Assessment Sub-Committee whose decision to take no action is subject to review. This is to minimise the risk of conflicts of interest and ensure fairness for all parties.

8. Notification to member

- 8.1 The Monitoring Officer shall notify the member who is the subject of the allegation that a request for review has been received.

9. Terms of Reference of Standards Review Sub-Committee

- 9.1 The Standards Review Sub-Committee is established to review, upon the request of the person who has made an allegation that a member of the Authority has failed or may have failed to comply with the Authority's Local Protocol, a decision of the Standards Assessment Sub-Committee that no action be taken in respect of that allegation.

- 9.2 Upon receipt of such request for a review and any accompanying report by the Monitoring Officer the Standards Review Sub-Committee shall review the decision of the Assessment Sub-Committee and shall then do one of the following:
- 9.2.1 Refer the allegation to the Monitoring Officer with an instruction that he/she arrange a formal investigation of the allegation or (after consultation with the Monitoring Officer) directing that he/she arrange training, conciliation or such other appropriate alternative steps; or
 - 9.2.2 Decide that no action should be taken in respect of the allegation; or
 - 9.2.3 Where the allegation is in respect of a person who is no longer a member of the Authority but is a Member of another relevant authority (as defined in Section 49 of the Local Government Act 2000) refer the allegation to the Monitoring Officer of that other Authority.
- 9.3 In reaching its decision, the Sub-Committee shall have regard to the Local Assessment Criteria in Appendix 2.
- 9.4 The Sub-Committee shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation, and the member concerned, of that decision. Where the decision is that no action should be taken, reasons for the decision shall be given. This notification shall normally be given within five working days of the decision being made.
- 9.5 When a matter is referred for investigation or other action, it does not mean that the Sub-Committee has made up its mind about the allegation. The Sub-Committee makes no findings of fact on the matter. It simply means that the Sub-Committee believes the alleged conduct, if proven, may amount to a failure to comply with the Local Protocol, and that some action should be taken in response to the complaint.

10. Meetings in private

- 10.1 Meetings of the Standards Assessment Sub-Committee and Standards Review Sub-Committee shall be in private. The press and public shall not be entitled to attend. Neither the person making the allegation, nor the member the subject of the allegation, are entitled to attend the meeting.
- 10.2 A written summary of the main points considered at the meeting, including the conclusion reached in respect of the allegation, and the reasons for it, shall be recorded.

11. Referral for steps other than investigation

- 11.1 Where the Standards Assessment Sub-Committee or Standards Review Sub-Committee has consulted the Monitoring Officer with a view to making a direction to take steps other than investigation that involve conciliation, the Monitoring Officer shall contact the person making the allegation, and the member the subject of it, seeking confirmation that they would co-operate with the action proposed if such a direction were made. It must be made clear that the decision to take other action, if pursued, will close the opportunity for the complaint to be fully investigated. The Monitoring Officer shall inform the Sub-Committee of the responses received from the complainant and member.

- 11.2 Where a direction is then made to take steps other than investigation, the Monitoring Officer shall produce a written report of the action taken or proposed. The report shall be considered by the Standards Committee within three months of the direction being given. This meeting shall normally be open to the press and public, unless the Committee decides that, in accordance with Part VA and Schedule 12A to the Local Government Act 1972, the report should be considered in private session.
- 11.3 If the Standards Committee is not satisfied with the action specified in the report, it shall give a further direction to the Monitoring Officer to take such further steps as appear appropriate.
- 11.4 If the Standards Committee is satisfied with the action specified in the report, it shall authorise the Monitoring Officer to give written notice to that effect to the person making the allegation and the member the subject of it.

12. Referral for investigation

- 12.1 Where the Standards Assessment Sub-Committee or Standards Review Sub-Committee has referred the matter to the Monitoring Officer for investigation, the Monitoring Officer shall arrange for such investigation to be carried out by the Deputy Monitoring Officer, or other person the Monitoring Officer considers to be suitably qualified and experienced to undertake the task("the Investigating Officer"). The investigation shall be carried out generally in accordance with any guidance issued by the Standards Board for England on the investigation of alleged failures to comply with the Members' Code of Conduct. This may include:
- 12.1.1 making inquiries of such persons as the Investigating Officer considers necessary or expedient;
 - 12.1.2 requiring such persons to give such information or explanation as the Investigating Officer considers expedient;
 - 12.1.3 inspection of such documents as the Investigating Officer considers expedient.
- 12.2 The Monitoring Officer may refer the matter back to the Standards Assessment Sub-Committee if, as a result of new evidence or information, he is of the opinion that the matter is materially more or less serious than may have been apparent when the decision to refer the matter for investigation was made, and that the Sub-Committee would have made a different decision had it been aware of that new evidence or information. The Monitoring Officer may also refer the matter back to the Sub-Committee if the member the subject of the allegation has died, resigned, or is seriously ill, and he is of the opinion that it is no longer appropriate to continue with an investigation.
- 12.3 Where the matter is referred back to the Standards Assessment Sub-Committee under Paragraph 12.2, the Sub-Committee may make any of the decisions referred to in Paragraph 5.2 above.
- 12.4 On completion of an investigation, the Investigating Officer shall prepare a written report of the investigation making one of the following findings:

12.4.1 that there has been a failure to comply with the Code of Conduct; or

12.4.2 that there has not been a failure to comply with the Code of Conduct.

12.5 The Monitoring Officer shall send a copy of the Investigating Officer's report to the member the subject of the allegation, and to the Standards Committee. The Standards Committee shall then arrange for the report to be considered at a hearing of the Standards Consideration Sub-Committee.

13. Convening a meeting of the Standards Consideration Sub-Committee

13.1 In consultation with the Chairman, the Monitoring Officer shall appoint, and convene a meeting of, the Standards Consideration Sub-Committee, from amongst the members of the Standards Committee, and any additional Independent members appointed in accordance with the Standards Committee's terms of reference, provided that at all times the composition of the Sub-Committee complies with Paragraph 13.2.

13.2 The Standards Consideration Sub-Committee shall include one local authority appointed member of the Authority, and one Secretary of State appointed member of the Authority. The Sub-Committee shall be chaired by an Independent member. Membership may include any member who has participated in consideration of the allegation at a meeting of the Standards Assessment Sub-Committee or Standards Review Sub-Committee at an earlier stage.

13.3 This meeting shall normally be open to the press and public, unless the Sub-Committee decides that, in accordance with Part VA and Schedule 12A to the Local Government Act 1972, the report should be considered in private session.

14. Terms of Reference of the Standards Consideration Sub-Committee

14.1 The Standards Consideration Sub-Committee shall be responsible for determining whether:

14.1.1 It accepts the Monitoring Officer's finding of no failure to observe the Code of Conduct; or

14.1.2 The matter should be referred to consideration at a hearing before the Standards Hearings Sub-Committee.

15. Finding of no failure

15.1 Where a finding of no failure is made under Paragraph 14.1.1, the Monitoring Officer shall give written notification of this to the person who made the allegation, and the member the subject of it.

16. Convening a meeting of the Standards Hearings Sub-Committee

16.1 Where the Standards Consideration Sub-Committee decides that the matter should be referred for consideration at a hearing before the Standards Hearings Sub-Committee, then, in consultation with the Chairman, the Monitoring Officer shall appoint, and convene a meeting of, the Standards Hearings Sub-Committee for this purpose. The Sub-Committee shall be appointed from amongst the members of the Standards Committee, any

Deputy members and any additional Independent members appointed in accordance with the Standards Committee's terms of reference, provided that at all times the composition of the Sub-Committee complies with Paragraph 16.2.

- 16.2 The Standards Hearings Sub-Committee shall include one local authority appointed member of the Authority, and one Secretary of State appointed member of the Authority. The Sub-Committee shall be chaired by an Independent member. Membership may include any member who has participated in consideration of the allegation at a meeting of the Standards Assessment Sub-Committee or Standards Review Sub-Committee at an earlier stage.
- 16.3 The meeting shall be held within three months of the date of completion of the Investigating Officer's report (or as soon as reasonably practicable thereafter) and at least fourteen days after the date on which the Monitoring Officer sent the Investigating Officer's report to the member the subject of the allegation, under Paragraph 12.5 above (unless the member agrees to it being held earlier).
- 16.4 This meeting shall normally be open to the press and public, unless the Sub-Committee decides that, in accordance with Part VA and Schedule 12A to the Local Government Act 1972, the report should be considered in private session.
- 16.5 The meeting of the Standards Hearings Sub-Committee may consider the report in the subject member's absence if the subject member does not attend the hearing. If the Sub-Committee is satisfied with the subject member's reasons for not being able to attend the meeting, it may arrange for the hearing to take place on another date.

17. Terms of Reference of Standards Hearings Sub-Committee

- 17.1 The Standards Hearings Sub-Committee is established to hold a hearing and make one of the following findings:
- 17.1.1 that the member did not fail to comply with the Local Protocol; or
- 17.1.2 that the member did fail to comply with the Local Protocol, but that no action needs to be taken in respect of the matters considered at the hearing; or
- 17.1.3 that the member did fail to comply with the Local Protocol and that one of, or any combination of, the following sanctions should be imposed:
- 17.1.3.1. censure of the member:
- 17.1.3.2. that the member submits a written apology in a form specified by the Sub-Committee;
- 17.1.3.3. that the member undertakes such training as the Sub-Committee specifies; and
- 17.1.3.4. that the member participate in such conciliation as the Sub-Committee specifies.

17.2 Any sanction imposed shall take effect immediately, except where the Sub-Committee directs that it shall take effect on a later date within the following six months.

17.3 The Sub-Committee shall consider whether it wishes to make any recommendations to the Standards Committee on matters arising from the complaint, such as clarification of any aspect of the Local Protocol or additional training generally, or as regards any perceived systemic weakness in the Local Protocol.

18. Pre-Hearing procedure

18.1 In consultation with the Chairman of the Standards Committee, the Monitoring Officer shall write to the subject member proposing a date for the hearing. The letter shall outline the hearing procedure, and the members rights, asking for a response within a set time. The letter shall enquire whether the subject member:

18.1.1 wants to be represented at the hearing by a solicitor, barrister or other person;

18.1.2 disagrees with any of the findings in the investigation report, including reasons for any disagreements;

18.1.3 wants to give evidence at the hearing, either verbally or in writing;

18.1.4 wants to call relevant witnesses to give evidence and, if so to provide outlines or statements of the evidence those witnesses intend to give;

18.1.5 wants any part of the hearing to be held in private;

Deleted: :

18.1.6 can attend the hearing: and

Deleted: and .

18.1.7 wishes to have any part of the investigation report or other documents withheld from the public,

Deleted: .

18.2 The Monitoring Officer shall send a copy of the subject member's response to the Investigating Officer, inviting them to say by a set date whether they wish to:

18.2.1 be represented at the hearing;

18.2.2 call relevant witnesses to give evidence;

18.2.3 have any part of the hearing held in private; and

18.2.4 have any part of the investigation report or other documents withheld from the public.

18.3 The Monitoring Officer shall advise the Standards Hearings Sub-Committee as necessary on any matter arising out of the subject member's response. At least two weeks before the hearing, the Monitoring Officer shall send a pre-hearing process summary to everyone involved in the complaint. This should set the date, time and place for the hearing, summarise the allegation, outline the main facts that are agreed and those which are not agreed, note whether the subject member will attend and be represented, list the

witnesses who intend to give evidence, and outline the procedure to be followed at the hearing.

19. Hearing procedure

- 19.1 The hearing is a formal meeting of the Authority and is not a court of law. It does not hear evidence under oath, but it does decide factual evidence on the balance of probabilities. The hearing will be conducted in a demonstrably fair, independent and politically impartial way, so that members of the public and members of the Authority have confidence in the Authority's procedures and findings.
- 19.2 The procedure followed at the hearing will be confirmed in the pre-hearing process summary referred to in Paragraph 18.3, but shall be generally in accordance with the model procedure for hearings into alleged failures to comply with the Members' Code of Conduct, set down in guidance issued by the Standards Board for England.

20. Notification of findings

- 20.1 As soon as reasonably practicable after the Standards Hearings Sub-Committee makes its finding on the matter, the Monitoring Officer shall give written notice of the finding and the reasons for it to the member the subject of the finding, and the person who made the allegation.

21. Right of appeal

- 21.1 The Sub-Committee's decision constitutes the end of the matter. There is no right of appeal against its decision.

Appendix 1: Complaint Form

Appendix 2: Local Assessment Criteria