



## **NEW FOREST NATIONAL PARK AUTHORITY**

### **CODE OF CONDUCT LOCALISM ACT 2011 SECTION 28 ARRANGEMENTS FOR DEALING WITH ALLEGATIONS**

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## **1. Making complaints**

- 1.1 Any complaint that a Member has failed to comply with the Code of Conduct, the Local Protocol for Members and Officers dealing with Planning Matters, or the Protocol for Member and Officer Relations should be in writing and addressed to:

The Monitoring Officer  
New Forest National Park Authority  
Town Hall  
Avenue Road  
Lymington  
SO41 9ZG  
Email: [monitoring.officer@newforestnpa.gov.uk](mailto:monitoring.officer@newforestnpa.gov.uk)

## **2. Initial action by Monitoring Officer (MO)**

- 2.1 The MO will conduct an initial review of the complaint and may, in his/her discretion, dismiss it without further action if in his/her opinion one or more of the following apply:
- (a) the person complained about is no longer a Member of the National Park Authority or was not a Member the time of the alleged matter;
  - (b) the conduct complained about has already been the subject of investigation or enquiry by another public body;
  - (c) the same, or substantially the same, issue has been the subject of a previous Code of Conduct allegation, and the MO considers that there is nothing further to be gained;
  - (d) the complaint was made anonymously;
  - (e) the matter being complained about happened more than 12 months before the complaint was received;
  - (f) the matter being complained about came to the complainant's notice more than 12 months before the complaint was received;
  - (g) where the matter concerns an employee;
  - (h) where the substance of the complaint is in effect about the Authority, or its policies and procedures, in which case it should be addressed through the Authority's Complaints Process.
- 2.2 The MO will carry out this initial assessment as soon as possible, but no later than 15 working days of the receipt of the complaint and inform the complainant and the Member accordingly if it is dismissed.
- 2.3 If the MO does not dismiss the complaint on one of the above grounds, he/she will acknowledge it and inform the complainant of the procedure to be followed. The MO may ask the complainant for further information or clarification.
- 2.4 The MO will, except in exceptional circumstances where he/she considers that it is in the public interest not to do so, send the Member complained about a copy of

the complaint, and invite the Member to submit initial written comments within 20 clear working days of the complaint being received by the Member.

2.5 The MO will also:

- (a) consult with an Independent Person (IP) appointed under section 28 of the Localism Act 2011 whose views will be taken into account when the complaint is initially examined, and
- (b) ask the Member any specific questions the MO considers will assist the initial assessment of the complaint.

2.6 As an alternative to the above action, the MO may, if he/she considers it appropriate, refer the complaint to the Police and take no further action under this procedure unless and until informed by the Police that they will not proceed.

**3. Preliminary assessment of the complaint**

3.1 The preliminary assessment will, if practicable, take place within 15 clear working days of receipt of the Member's written comments under section 2 above.

3.2 The decision on the preliminary assessment will be made by the Monitoring Team. This will comprise the MO and the Chairman of the Standards Committee or, if he/she is unavailable, another member of the Standards Committee, and will take into account the views of the IP.

3.3 If the MO considers that it is not appropriate for him/her to act, the Deputy MO will take his/her place. In exceptional circumstances, the MO may consider appointing a MO or arranging for a Standards Committee from another Authority to process the complaint, for example where there is a potential conflict of interest of the MO or Standards Committee Members.

3.4 Before the Monitoring Team considers the complaint, the MO will send the Chairman of the Standards Committee/alternative member and the IP:

- (a) a copy of the complaint;
- (b) a copy of the Member's comments in response to the complaint; and
- (c) any other information in the MO's possession that he/she considers relevant.

3.5 The Monitoring Team's decision on the initial assessment, with reasons and the views of the IP (if involved) will be given in writing to the Member and the complainant within five working days.

3.6 There will be no right of appeal.

3.7 The decision will be available for public inspection on request, subject to the redaction of personal data where appropriate.

#### 4. Decision Options at Preliminary Assessment

4.1 The Monitoring Team may decide on one of the following:

- (a) to take no action (see Appendix 1);
- (b) to attempt to resolve the matter informally between the complainant and Member, either in writing, by face-to-face meeting, or by any other method they consider appropriate. In this case there will be no formal decision as to whether or not there was a breach of the Code of Conduct. If an attempt to resolve the matter in this way is not achieved to the satisfaction of the Member and the complainant, options (c) and (d) will remain open;
- (c) to arrange a hearing before a Panel of three Members drawn from the Standards Committee and the IP, at which the Member and complainant can state their case and, if appropriate, call witnesses. Procedures are set out at Appendix 2. The hearing will reach a formal decision as to whether the Member breached the Code of Conduct;
- (d) if the complaint is potentially complex, to arrange for a formal investigation to be undertaken, including interview of appropriate witnesses, and to seek the view of the investigator as to whether there has been a breach of the Code of Conduct. If the investigator considers there has been a breach of the Code, a hearing will be arranged as in (c). If the investigator considers that there has not been a breach of the Code, the MO will issue a formal finding to that effect.

### NO FURTHER ACTION

No action will be taken where any of the following apply:

- (a) the Monitoring Team considers that there is no prima facie evidence that the Code has been breached;
- (b) taking into account the nature of the allegation, the Monitoring Team considers that using public funds to examine the matter further would be disproportionate;
- (c) the Monitoring Team considers that the complaint appears to be vexatious, politically motivated, tit-for-tat or made by a persistent complainant;
- (d) the Monitoring Team considers the complaint does not relate to behaviour in the Member's official capacity as a Member;
- (e) the Monitoring Team considers that, despite having requested further information/clarity from the complainant, there is insufficient information to take the matter further;
- (f) the complainant has requested that their identity as complainant be withheld from the Member, and the Monitoring Team considers that the matter cannot reasonably be taken further in these circumstances;
- (g) the Member has already apologised for the action that was the subject of the complaint, and the Monitoring Team considers that this is sufficient to address the complaint;
- (h) the Monitoring Team considers that the complaint is essentially against the action of the National Park Authority as a whole and cannot properly be directed against an individual Member(s).

### PROCEDURE FOR HEARINGS

#### 1.0 General:

- 1.1 Hearings will where possible be held within **two** months of the initial assessment decision where there is no prior investigation, and within **two** months of receipt by the MO of the investigator's report where there has been a prior investigation.
- 1.2 The hearing will be before a Panel of **three** of the Members drawn from the Standards Committee. One of the Members will be elected Chairman. An Officer will take notes of the proceedings and provide general assistance to the Panel.
- 1.3 The Independent Person [IP] appointed under section 28 of the Localism Act 2011 will also be present. His/her views will be requested and taken into account by the Panel, but by law he/she cannot vote.
- 1.4 The MO or deputy MO will be present as advisor to the Panel.
- 1.5 Both the Member and complainant will be invited to appear. They may present their own case or they may be represented.
- 1.6 They may bring witnesses **of fact** (of a number the Panel considers is reasonable), in which case written statements from the witnesses must be lodged with the MO at least 10 working days before the hearing. "Character witnesses" who cannot provide evidence on the matter complained about will not be permitted.
- 1.6 The cost of any attendance/representation must be borne by the party concerned.
- 1.7 All written evidence will be circulated to the Panel, the IP, the **Member** and the complainant at least **five** working days before the hearing.
- 1.8 Written statements will not be read out at the hearing as it will be assumed all those present are already familiar with their contents.
- 1.9 The **MO or DMO** can speak at any time to advise the Panel on technical matters or ask questions of any party.

#### 2.0 Proceedings:

- 2.1 The complainant **may** address the Panel and call witnesses (if any).
- 2.2 The Member **may** ask the complainant and witnesses questions.
- 2.3 The Panel and **IP may** ask the complainant and witnesses questions.
- 2.4 The Member **may** address the Panel and call witnesses (**subject to paragraph 1.6**

above)

- 2.5 The complainant may ask the Member and witnesses questions.
- 2.6 The Panel and IP may ask the Member and witnesses questions.
- 2.7 The complainant may make a closing statement.
- 2.8 The Member may make a closing statement.
- 2.9 All those present except the Panel, the IP, the MO and any NPA Officer in attendance will leave the room while the Panel makes its decision.
- 2.10 The Panel's decision will be announced orally to those attending the hearing as soon as possible after the hearing has taken place. Where the deliberations are not concluded immediately after the hearing, it may be necessary to notify attendees the following day.
- 2.11 A written report of the hearing and decision, with reasons, will be prepared, usually within five working days. A copy will be sent to all those present at the hearing.
- 2.12 The written report will be available for public inspection on request, subject to any redactions for the purposes of data protection.

### **3.0 Decisions open to the Panel:**

- 3.1 The Panel may decide on one of the following outcomes:
  - (a) That the Member did not fail to comply with the National Park Authority's Code of Conduct;
  - (b) That the Member did fail to comply with the National Park Authority's Code of Conduct, and that
    - (i) no action need be taken; or
    - (ii) the Member be censured; and/or
    - (iii) whatever publicity the Panel considers appropriate be given to its findings; and/or
    - (iv) it be recommended to the National Park Authority that the Member be removed from a specific Committee(s), or from any other position to which the National Park Authority has appointed him/her.
- 3.2 The Panel may also make any recommendations it considers appropriate to the National Park Authority concerned on procedural amendments that might assist Members generally to follow the Code of Conduct.