



NEW FOREST NATIONAL PARK AUTHORITY

CODE OF CONDUCT LOCALISM ACT 2011 SECTION 28 **MEMBER COMPLAINTS PROCESS** **(ARRANGEMENTS FOR DEALING WITH ALLEGATIONS)**

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Approved by: Full Authority
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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

2. Initial action by Monitoring Officer (MO)

- 2.1 At all stages during the process laid out below the MO will keep the matter under review, and will seek to ensure that the complaint is being processed in a fair and transparent manner and without any conflict of interest in respect of any of the parties involved in investigating the complaint.
- 2.2 At any time on or after receipt of the complaint, the MO may ask the Deputy Monitoring Officer (DMO) to act on his/her behalf. In particular, this might occur if the MO considers that it is not appropriate for him/her to act or he/she is not available. In exceptional circumstances and where in the MO's discretion it appears necessary to do so, the MO may consider asking the MO from another local authority or National Park Authority to progress the complaint in accordance with these rules, working with the Independent Person (IP) and the Authority's Standards Committee. References to the MO throughout this process include any person investigating a complaint in accordance with this paragraph 2.2.
- 2.3 If at any time it appears to the MO that all the Members of the Standards Committee have a conflict of interest with regard to the subject matter of the complaint, the matter shall be referred to a meeting of the full Authority, which will select Members as considered appropriate to consider the matter, or if necessary shall ask for assistance in resolving the matter from another local authority or National Park Authority.
- 2.4 On receipt of the complaint ~~the~~ 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~~, is, or should be, the subject of investigation or enquiry by another public body (i.e. where it does not relate to National Park Authority business), and in particular this will include

complaints that are or ought to be the subject of investigation by the local authority that appoints that Member to the Authority;

- (c) the conduct alleged amounts to an offence and/or has been, is, or should be the subject of a police investigation (see paragraph 2.9 below);
- ~~(d)~~ 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 by further action;
- ~~(ed)~~ the complaint was made anonymously or, having raised the complaint, the complainant does not engage with the process;
- ~~(ef)~~ the matter being complained about happened more than 12 months before the complaint was received, unless the complainant only became aware of the matter more than 12 months after the matter occurred, in which case the complaint must be brought within 12 months of the complainant becoming so aware;
- ~~(fg)~~ 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, or its officer(s), in which case it should be addressed through the Authority's Complaints Process-;
- ~~(hi)~~ it appears that the complaint is trivial, vexatious, manifestly unreasonable, or there is a manifest ulterior and/or political motive, or it is otherwise manifestly clearly unfounded;
- ~~(ji)~~ there is insufficient evidence and / or the allegation is not serious enough to warrant an investigation

2.5 In conducting an initial review under 2.4, the MO will, where he/she considers it appropriate:

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- (a) consult with an Independent Person (IP) appointed under section 28 of the Localism Act 2011 and consider his/her views,
- (b) send a copy of the complaint to the Member concerned, and
- (c) ask the Member any specific questions that the MO considers will assist in the initial assessment of the complaint.

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2.6 2.2 The MO will carry out ~~the~~ his initial assessment under this section 2 as soon as possible, ~~but and will conclude it~~ no later than within 15 working days of the receipt of the complaint. ~~The MO and will~~ inform the complainant and the Member accordingly if ~~the matter~~ is dismissed.

2.37 If the MO does not dismiss the complaint on one of the above grounds, he/she will acknowledge it and will inform the complainant of the procedure to be followed. The MO may ask the complainant for further information or clarification at any stage.

2.48 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 will 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.~~

2.96 As an alternative to the above action, the MO may, if he/she considers it appropriate, refer the complaint to the Police or the Director of Public Prosecutions ('DPP'), as appropriate, and take no further action under this procedure unless and until informed ~~by the Police~~ that the police or DPP they will not proceed. This will include but is not limited to where, in the MO's opinion, a complaint involves a potentially criminal breach of the rules on disclosable pecuniary interests.

3. Preliminary assessment of the complaint by the Monitoring Team

3.1 If, following the review under section 2 above, the investigation of the complaint is to proceed, a The preliminary assessment by the Monitoring Team will, if practicable, take place within 15 clear working days of receipt of the Member's written comments under section 2 above. The

~~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 may appoint the Deputy Monitoring Officer (DMO) to act on their behalf at any time, in particular this may occur if they considers that it is not appropriate for him/her to act, the Deputy MO will take his/her theirplace, but may occur at any time. 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.~~

3.42 Before the Monitoring Team considers the complaint, the MO will send the Chairman of the Standards Committee/alternative mMember 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 s
relevant.

and will ask the IP for his/her views.-

3.53 The Monitoring Team's decision on the ~~initial-preliminary~~ assessment, ~~according to paragraph 4 below, together~~ with reasons ~~for the decisions and a summary of the IP's views, and the views of the IP (if involved)~~ will be given in writing to the Member and the complainant within five working days ~~of that decision being taken~~.

3.64 There will be no right of appeal.

3.75 The decision will be available for public inspection on request, subject to the redaction of ~~personal data~~ ~~for data protection reasons where appropriate or for any other reason as required by law~~.

4. ~~Decision~~ ~~Options at Preliminary-preliminary Assessment-assessment stage~~

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 in accordance with paragraph 5 below;~~
- (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.

5. ~~Hearings~~

5.1 ~~Where a hearing is required in accordance with paragraph 4.1(c) above, this will be held before a Panel of three Members drawn from the Standards Committee and the IP. The Member and complainant will have the opportunity to state their case, ask questions, and, if appropriate, call witnesses. The full procedure is set out at Appendix 2.~~

5.2 ~~The hearing will reach a formal decision as to whether or not the Member breached the Code of Conduct.~~

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APPENDIX 1

NO FURTHER ACTION

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

- (a) the Monitoring Team considers that there is no ~~prima facies~~substantive or credible 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, manifestly unreasonable, politically or personally motivated, or made by a persistent complainant without good cause;
- (d) the Monitoring Team considers the complaint does not relate to behaviour in the Member's ~~official~~ capacity as a Member of the Authority;
- (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).

APPENDIX 2

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 of the Panel. 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 2014~~ will also be present. His/her views will be requested and taken into account by the Panel, but ~~by law~~ he/she will cannot not have a 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 Each may present their own case or ~~they~~ may be represented.
- 1.6 Both the Member and complainant ~~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 subject matter of the complained ~~about~~ will not be permitted.
- 1.~~76~~ The cost of any attendance/representation must be borne by the party concerned.
- 1.~~78~~ 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.~~89~~ 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.~~910~~ 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 [Authority](#) Officer in attendance will leave the room while the Panel makes its decision. ~~having regard to the views of the IP and any advice given by the MO.~~
- 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 which will include the relevant facts, reasons, a summary of the IP's views, and any sanctions,~~ will be prepared. ~~This should~~ usually occur within five working days. A copy will be sent to ~~all those present at the hearing~~ the Panel, the IP, the Member and the complainant.
- 2.12 The written report will be available for public inspection on request, subject to any redactions for the purposes of data protection ~~or otherwise as required by law.~~

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) ~~the Member be asked to apologise to the complainant; and/or~~
 - (iv) ~~the Member be asked to undertake training; and/or~~
 - (v) 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.