



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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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

- 1.2 The complainant should provide a name and contact address or email address in the complaint. Should the complainant wish to request that the complaint be dealt with on a confidential basis, this should be indicated in the complaint itself together with the grounds for the request. The MO will, taking advice from the Information & Data Protection Officer if necessary, consider these grounds and determine whether it would be reasonable and lawful to comply with the request. Note that, in line with paragraph 2.4(e) below, where a fully anonymous complaint is received by the MO it is unlikely to be investigated, but there may be some limited circumstances in which it might be reasonable for an investigation to proceed notwithstanding that identifying details will not be disclosed to others.

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. In exceptional circumstances the MO may, at the MO's discretion, temporarily pause an investigation where it would be appropriate to do so, for example by reason of the ill health of the Member or complainant. If this occurs the MO will keep the Member and complainant informed as to the probable length of the delay.
- 2.2 At any time on or after receipt of the complaint, the MO may ask the Deputy Monitoring Officer (DMO) to act on the MO's behalf. In particular, this might occur if the MO considers that it is not appropriate for the MO to act or the MO 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 MO will conduct an initial review and may, in the MO's discretion, dismiss it without further action if in the MO's 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 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), including 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 or other 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 to be gained by further action;
 - (e) the complaint was made anonymously or the complainant unreasonably insists on their details not being disclosed to the member in question, or, having raised the complaint, the complainant does not engage with the process;
 - (f) 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;
 - (g) 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;
 - (h) it appears that the complaint is trivial, vexatious, manifestly unreasonable, there is a manifest ulterior and/or political motive, or it is otherwise clearly unfounded;
 - (i) 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 the MO considers it appropriate:
- (a) consult with an Independent Person (IP) appointed under section 28 of the Localism Act 2011 and consider the IP's views, and where more than one IP is appointed by the Authority it shall be at the MO's discretion as to which IP should be consulted,

- (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.
- 2.6 The MO will carry out the initial assessment under this section 2 as soon as possible and will if it is practicable to do so conclude it no later than within 15 working days of the receipt of the complaint. The MO will inform the complainant and the Member accordingly if the matter is dismissed.
- 2.7 If the MO does not dismiss the complaint on one of the above grounds, the MO 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.
- 2.8 The MO will (except in exceptional circumstances where the MO 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.
- 2.9 As an alternative to the above action, the MO may, if the MO considers it appropriate, refer the complaint to the police or the other relevant prosecuting body, as appropriate, and take no further action under this procedure unless and until informed that the police or other body 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.
- 2.10 Where in the MO's opinion it would be appropriate to refer the complaint to any other body, whether under 2.9 above or otherwise, the MO may do so. Once the Member and the complainant have been informed under 2.6 above, no further action will be taken pursuant to this process.

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 preliminary assessment by the MO acting in consultation with the Chair of the Standards Committee or, if the Chair is unavailable, another Member of the Standards Committee will, if practicable, take place within 15 clear working days of receipt of the Member's written comments under section 2 above. The MO and the Chair or alternative member of the Standards Committee are together referred to where appropriate as the 'Monitoring Team' in these Arrangements.
- 3.2 Before the Monitoring Team considers the complaint, the MO will undertake an investigation of the complaint including establishing what evidence exists and interviewing anyone the MO considers relevant for the purposes of the complaint investigation. The MO will then send to the Chair 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 the MO considers relevant,

and will ask the IP for their views.

- 3.3 The MO's decision on the preliminary assessment, which as set out above will be taken in consultation with the Chair of the Standards Committee and taking account of the IP's views, , will be made in accordance with paragraph 4 below) and the decision together with reasons for the decisions and a summary of the IP's views will be given in writing to the Member and the complainant within, where practicable, 15 working days of that decision being taken.
- 3.4 There will be no right of appeal.
- 3.5 The decision will be available for public inspection on request, subject to the redaction of data for data protection reasons or for any other reason as required by law.

4. Decision options at preliminary assessment stage

- 4.1 The MO in consultation with the Chair of the Standards Committee and taking into account the IP's views 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 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 the Standards Committee, with the IP present. 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.

NO FURTHER ACTION

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

- (a) the Monitoring Team considers that there is no 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 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 or undertaken any other action such as voluntary training relevant to the subject matter 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 the Standards Committee. An Officer will take notes of the proceedings and provide general assistance to the Panel.
- 1.3 The IP will also be present. The IP's views will be requested and taken into account by the Committee, but the IP will not have a vote.
- 1.4 The MO or other legal advisor will be present as advisor to the Committee.
- 1.5 Both the Member and complainant will be invited to appear. Each may present their own case or may be represented.
- 1.6 Both the Member and complainant may bring witnesses of fact (of a number the Committee considers is reasonable), in which case written statements from the witnesses must be lodged with the MO at least 10 working days before the meeting. "Character witnesses" who cannot provide evidence on the subject matter of the complaint will not be permitted.
- 1.7 The cost of any attendance/representation must be borne by the party concerned.
- 1.8 All written evidence will be circulated to the Committee, the IP, the Member and the complainant at least five working days before the hearing.
- 1.9 Written statements will not be read out at the hearing as it will be assumed all those present are already familiar with their contents.
- 1.10 The MO can speak at any time to advise the Committee on technical matters or ask questions of any party.

2.0 Proceedings:

- 2.1 The complainant may address the Committee and call witnesses (if any).
- 2.2 The Member may ask the complainant and witnesses questions.
- 2.3 The Committee and IP may ask the complainant and witnesses questions.
- 2.4 The Member may address the Committee and call witnesses.

- 2.5 The complainant may ask the Member and witnesses questions.
- 2.6 The Committee 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 The Committee will make its decision, having regard to the views of the IP and any advice given by the MO, in accordance with the rules on voting set out in the Standing Orders. The Committee will where appropriate go into a Part 2 session in accordance with the usual rules if confidential information, such as personal data or legal advice, is to be discussed.
- 2.10 The Authority'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 Following the meeting, minutes will be prepared, to which will include the relevant facts, reasons, a summary of the IP's views, and any sanctions. A copy of the draft minutes will be sent to the Committee members, the IP, the Member and the complainant and 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 Committee:

- 3.1 The Committee may decide on one of the following outcomes:
 - (a) That the Member did not fail to comply with the National Park Authority's Member Code of Conduct;
 - (b) That the Member did fail to comply with the Code of Conduct, and that:
 - (i) no action need be taken; or
 - (ii) the Member be censured; and/or
 - (iii) whatever publicity the Committee 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 that Member.
- 3.2 The Committee 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.