

## North York Moors National Park Authority

25 March 2019

### Proposed Changes to the Authority Guide “Making a Complaint about an Authority Member”

#### 1. Purpose of the Report

- 1.1 To seek Members approval of proposed changes to the guide “Making a Complaint about an Authority Member”.

#### 2. Background

- 2.1 As part of the usual periodic review of Authority guides and documents a small number of changes are proposed to the guide “Making a Complaint about an Authority Member”.

- 2.2 The guide is attached to this report at Appendix 1, with the proposed changes highlighted. The principle changes are,

- make it clearer that a complaint can be delegated to the Deputy Monitoring Officer,
- make clearer the distinction between “initial assessment” and “formal investigation”,
- make clearer the scope for not having a “formal investigation”,
  
- remove the right to appeal to an “Appeals Committee”, in order to avoid the potential for disproportionate use of resources in such an appeal when all parties would still have the right to complain to the LGO.

#### 3. Financial and Staffing Implications

- 3.1 Adoption of these changes would make the guide more effective and efficient to use.

#### 4. Risks and Legal Implications

- 4.1 There are no significant risks or legal implications stemming from this Report.

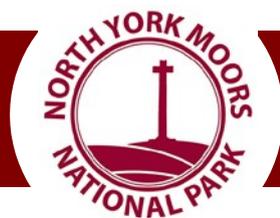
#### 5. Recommendation

- 5.1 To approve the proposed changes in the guide, for the changes to come into effect on 1 May 2019.

#### Appendices for this Report,

**Appendix 1** – the guide “Making a Complaint about an Authority Member”, with proposed changes highlighted

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## North York Moors National Park Authority Making a Complaint about an Authority Member

### Your guide to making a complaint about the behaviour of a North York Moors National Park Authority Member under the Members' Code of Conduct

If you want to make a complaint about the conduct of a Member of the North York Moors National Park Authority (the Authority), you must submit your complaint, in writing to:

The Monitoring Officer  
North York Moors National Park Authority  
The Old Vicarage  
Bondgate  
Helmsley  
York YO62 5BP

Or email [general@northyorkmoors.org.uk](mailto:general@northyorkmoors.org.uk) stating that you wish to make a complaint about the conduct of a Member.

Anonymous complaints will not be investigated.

#### Assessment for Investigation or Other Action

Every complaint relating to the Code of Conduct will be received by the Monitoring Officer. [The Monitoring Officer may delegate all or part of the handling of the complaint to the Deputy Monitoring Officer, and references in this guide to "Monitoring Officer" include the "Deputy Monitoring Officer".](#)

The Member who is the subject of a complaint ('the Subject Member') will be advised of the complaint and copied into any correspondence or complaint form received from the Complainant. The Monitoring Officer will [carry out an initial assessment of the review complaints](#) and consult with the Independent Person in doing so, and will decide whether [a the](#) complaint merits formal investigation. (Independent Person – who is not a Member or employee of the Authority).

The Monitoring Officer may request more information to assist the decision as to whether [formal](#) investigation is appropriate.

The Subject Member may also be requested to provide information about the matter.

The Monitoring Officer will advise you, in writing, of his/her decision about whether or not the matter ~~should~~ [will](#) be [formally](#) investigated.

If the complaint identifies criminal conduct or breach of other regulation, the Monitoring Officer will consult the Police and/or such other regulatory agencies as he/she considers appropriate.

The Monitoring Officer will not refer for [formal](#) investigation matters which are [\(inter alia\)](#), in his/her opinion, and after consultation with the Independent Person, vexatious, offensive, trivial or politically motivated, [or in which the behaviour complained of would not, in any event, amount to a breach of the Code of Conduct.](#)

If the Monitoring Officer has a conflict of interest or does not for any other reason consider it appropriate that s/he undertakes initial assessment of a complaint, it will be referred to the Finance, Risk, Audit and Standards Committee.

## Informal Resolution

Wherever possible the Monitoring Officer will seek to resolve a complaint informally without the need for formal investigation or referral to the Committee.

This may involve trying to mediate between the parties, aiming to clarify misunderstandings, or encouraging discussion between the Complainant and Subject Member to enable a resolution between them, or where appropriate, an apology. It may also involve other remedial action by the Authority after discussions with the Chair of the Authority (who may take action to ensure a satisfactory resolution).

If the [Subject](#) Member or the Authority make a reasonable offer of local resolution but the Complainant is not willing to accept the offer, the Monitoring Officer will take this into account in deciding whether a complaint merits formal investigation.

Where complaints about Members are made informally to the Chair or Chief Executive the complainant will always have the formal mechanism outlined to them as a readily available option. Where the complainant does not wish to make a formal complaint the Chair or Chief Executive as appropriate, in consultation with the Monitoring Officer may take appropriate steps to resolve the informal complaint.

## Formal Investigation

If the [initial assessment of the](#) Monitoring Officer ~~is~~ [concludes](#) that a matter merits [formal](#) investigation, the Complainant will be invited to submit all information they wish to submit in support of their allegation within 15 working days of request.

Once the information is received it will be sent to the Subject Member, who would also be invited to submit all information they wish to be considered in response within 15 working days.

~~The Monitoring Officer may appoint a member of his/her staff or the Authority's staff to oversee the gathering of information relating to the matter which will comprise the investigation ('the Nominated Officer'). The Nominated Officer will consider whether any further information is needed and take steps as far as possible to secure its production.~~

A report containing the information provided by the Complainant and Subject Member will be prepared by the ~~Nominated Officer, and copied to both parties and sent to the~~ Monitoring Officer. The report will conclude with a [recommendation decision](#) as to whether ~~it is considered that~~ there has been a breach of the Code.

## Conclusion of no evidence of failure to comply with the Code of Conduct

The Monitoring Officer ~~will receive and review the report and if satisfied that the report is sufficient, the Monitoring Officer~~ will write to the Complainant and the subject Member notifying them that s/he is satisfied that no further action is required.

## Conclusion that there is evidence of failure to comply with the Code of Conduct

The Monitoring Officer will ~~review the report and~~ consult the Independent Person as to whether local resolution may be possible. If any suggested resolution is not agreed, the matter will be referred to the Committee for consideration.

If the matter can reasonably be resolved in the Monitoring Officer's opinion without the need for a hearing he/she will consult the Independent Person, with the Complainant and Subject

Member, to seek to agree a fair resolution which will also ensure higher standards of conduct for the future.

As with initial assessment this can include the Subject Member accepting that conduct was unacceptable and offering an apology, and/or other remedial action by the Authority. If the Subject Member complies with the suggested resolution the matter will be reported to the Committee but no further action will be taken.

## Hearing

If local resolution is not appropriate, or the Complainant or Subject Member are not satisfied with the proposed resolution, or the Subject Member is not prepared to undertake any proposed remedial action, the report will be reported to a Hearings Panel ('the Panel') of 3 Members from the Committee. The Independent Person will attend all Panel meetings and will be consulted by the Panel in making its decision about whether there has been a breach of the Code and any action to be taken.

The Panel will meet to decide whether the [Subject](#) Member has failed to comply with the Code of Conduct, and if so, whether to take any action.

The report will be presented to the Panel. The Complainant and the Subject Member will be invited to attend the Panel to present information and make representations in relation to the allegations that there has been a failure to comply with the Code of Conduct. The Independent Person will be present. The Panel can proceed in the absence of either the Subject Member or the Complainant where it deems this to be appropriate.

The Subject Member will have the right to be accompanied by another Member or lay supporter whose presence is essential to ensure that any particular needs of the Subject Member are met (eg. a 'signer' or translator). The Subject Member does not have the right to be accompanied by a legal representative and the person accompanying cannot make representations on behalf of the Subject Member and is only able to observe or perform a necessary function to ensure that any particular needs of the Subject Member are met.

The Panel shall consult with the Independent Person and be advised by the Monitoring Officer. It may conclude:

- (a) that the [Subject](#) Member did not fail to comply with the Code of Conduct;
- (b) that the [Subject](#) Member did fail to comply with the Code of Conduct, and if so, the Panel may determine whether any action is necessary.

The Subject Member will have an opportunity at this stage to make representations to the Panel and consult with the Independent Person. The Panel will then decide what action to take.

## What action can the Panel take if there has been a breach of the Code of Conduct?

The Panel may:

- (a) issue a letter of censure to the Subject Member and where appropriate require an apology to be given to the Complainant;
- (b) recommend to the Authority that he/she be removed from any or all committees or sub-committees of the Authority;
- (c) instruct the Monitoring Officer to arrange training for the Subject Member.

The Panel has no power to suspend or disqualify the Subject Member or to withdraw allowances.

### **What happens at the end of the hearing?**

The Chair of the Panel will announce the decision of the Panel as to whether the Subject Member has failed to comply with the Code of Conduct and as to any action it deems necessary. The Monitoring Officer will prepare a Decision Notice which will be given to the Subject Member and the Complainant within 5 working days. The outcome will be reported to the next meeting of the Committee.

### **Revision of these arrangements**

The Authority may by resolution agree to amend these arrangements and delegates to the Chair of the Panel the right to depart from these arrangements where he/she considers it expedient to do so to secure the effective and fair consideration of any matter and ensure the reasonable and proportionate use of public resources.

### **Appeals**

~~If a Complainant or the Subject Member wishes to appeal against a decision of the Panel, the Complainant or Subject Member (as relevant) may refer the decision to the Appeals Committee, which will consist of another three Members of the Committee which will be advised by an Independent Person. The function of this Appeals Committee will be to meet to review the decision and then undertake the following:~~

- ~~(a) — confirm the decision of the Panel as relevant; or~~
- ~~(b) — take such action as the Committee deems appropriate in respect of the complaint as permitted by these arrangements.~~

There is no right of appeal against the decision of the Monitoring Officer or Appeals Committee the Panel for either the Complainant or the Subject Member but if either ~~.If, after appeal, the Complainant~~ feels that the Authority has failed to deal with the complaint properly they may make a complaint to the Local Government Ombudsman.