

REPORT OF THE CHIEF EXECUTIVE

SUBJECT:
**MONITORING AND ACTIONS FOLLOWING RECOMMENDATION OF
MONITORING OFFICER INTO COMPLAINTS AGAINST PCNPA 2011
(including Bettws Newydd)**

Background

The Chief Executive agreed to bring forward a report into the outcomes and actions following the Monitoring Officer's Report in to the "Bettws Newydd" complaint.

This report actually goes further than reporting on the "Bettws Newydd" case. It comprehensively brings together all recommendations made by the Monitoring Officer during 2011 (see Appendix A).

This is the first report with such a format and has been recognised by the Monitoring Officer as a step in the right direction. Officers consider that as such it:-

- Demonstrates a highly transparent approach to our complaints procedure.
- Maintains the complainant's anonymity.
- Brings our scrutiny and actions into the public domain and allows Members to debate best ways to improve our service to our customers.
- Makes it easier to identify common threads, rather than treating recommendations on an individual basis.
- Enables actions to be identified and rolled out in other similar situations where there are lessons are to be learned across the whole Authority.

The nature of the recommendations

Bringing this report together has in itself identified difficulties and issues in providing clear and precise actions.

Timescales

The Monitoring Officer's recommendations, in some instances, include timescales within which actions are recommended to taken e.g. '*within 2 months of the report.*'

This approach recognises and implies a priority and urgency within which the Monitoring Officer suggests actions take place.

However the time limited recommendations do not always appear to take into account:

1. The amount of work involved.
2. The Committee cycle limitations.
3. Other work which has already been programmed and which could also include the recommended action.

It is therefore suggested that the Monitoring Officer's recommendations are framed instead, on a 'high', 'medium' and 'low' priority scale based on the level of risk involved in not undertaking an action and also the recognition of just how much an action would impact on other Park customers.

Context

The Monitoring Officer's recommendations have been extracted from his full reports. For this report to be an easy-read, his recommendations need to stand alone and be read in isolation. At present there is a variation in the fullness and explanation of recommendations as they were not written with this purpose in mind.

It is therefore suggested that future recommendations are given an annual chronological reference number, together with a concise explanation of context. (e.g. Dept/Team of origin)

Equalities – Welsh Language Implications

None.

Financial Implications

There are no direct financial implications arising from the consideration of this report. There may however be financial implications arising from implementing the Monitoring Officer's recommendations.

Legal Implications

The anonymity of complainants is respected in this report and in the reporting of the Monitoring Officer's recommendations. The divulging of personal information held by the PCNPA is not considered to be in the public interest, and of course the criteria for any Freedom of Information request will be considered on their individual merits at the time of application.

RECOMMENDATION:

That Members resolve:

- 1. To note and accept the proposed courses of action as set out in Appendix A – which covers the 2011 Monitoring Officer’s recommendations;**
- 2. That a similar report is prepared and presented by officers on an annual basis, and**
- 3. That the Monitoring Officer be requested to duly reference and ‘context’ his recommendations and where necessary give a ‘High’, ‘Medium’ or ‘Low’ prioritisation to them.**

Background Documents

Report of Monitoring Officer (Report no. 25/11) to the National Park Authority: 11th May 2011

(For further information, please contact Jane Gibson, Director of Conservation and Planning)

Monitoring Officer Recommendations

<u>Rec no.</u>	<u>Date of Report</u>	<u>Recommendation</u>	<u>Due Date</u>	<u>Officer responsible and Response</u>	<u>Progress (incl. date completed)</u>
2010/01	09/12/10	The invitation to participants should make it clear that community based representatives are invited not in a personal capacity but in a representative capacity and as such it is essential that they carry out the engagement process free from personal or prejudicial interests, predetermination and bias. It is essential that in future this caveat be included at the outset rather than halfway through the process. This was acknowledged by the lead officer of the Authority in evidence to the Inquiry in March 2010.	n/a	Senior Officers especially planning. Agreed that it is relevant and worthwhile to reaffirm in what capacity individuals are participating in all aspects of their involvement with National Park.	Ongoing reminders when appropriate.
2010/02	09/12/10	The role of the community Panels must be explained in writing to participants in clear and straightforward language to reflect the fact that, many of them did not come into existence as local pressure groups or single issue campaign groups, they may be quite small and contain individuals who may be anxious about how they express themselves in public meetings. In order for community engagement to be effective all views need to be received and understood and the use of jargon and "officialese" can often prejudice the ability of people to respond or be participate effectively in this process. In particular where there are a series of meetings, participants need to be reminded of what has been discussed in the past, what is to be discussed and their roles in the future discussions.	n/a	Senior Officers and those involved in all public meetings. Agreed a clear and concise note of meetings should be made available as soon as possible after the meeting. The importance of note taking and file referencing has been emphasized to all staff.	Ongoing reminders when appropriate.
2010/03	09/12/10	The use of facilitators can be useful to try to ensure "neutrality" but it is fundamental that any such facilitators who are engaged are thoroughly briefed as to local demographics, geography and issues. If they are not, there is the danger that their credibility can be undermined and the efficacy of the entire process diminished.	n/a	Head of Dev Management. Agreed, however care is needed to ensure 'neutrality' in their role as a facilitator.	

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2010/04	09/12/10	When the community panels do meet, accurate notes need to be taken by the facilitators so that all participants can be confident that their contributions are accurately recorded. Making contemporaneous notes on flip charts that have already been prepared and written out is a practice that should not continue in the future. These will enable the on going nature of the community engagement process to be assimilated more easily by groups who are later invited to participate.	n/a	Agreed. See above.	
2010/05	09/12/10	The way in which the areas for each community panel meets should be looked at again to see if specific communities should have their own. This of course is entirely dependent on the resources available to the Authority and the Welsh Assembly Government and the terms of reference of the community engagement process.	<u>n/a</u>	Noted.	
2011/01	23/02/11	Officers must be constantly vigilant to ensure that not only do they deliver their reports objectively, but are able to deliver them orally in an impartial manner. They must also be able to justify them, when called upon to do so in an open forum, in a reasonable and balanced manner. The perception of bias and prejudice can easily arise in the eyes of members of the public, especially if they are disappointed with the Authority's decision. If an Officer is seen to be too close to the debate or for or against the merits of any particular application, then this perception can cause a lack of confidence in the system thereby undermining it. There are clear roles for them to fulfill, but they must not be seen at any time to be less than impartial or to favour one side or another of the debate.	n/a	Noted, however planners are paid professionals to make a 'recommendation' (based on factual knowledge and policy guidance) and therefore present in an advisory capacity to their Members. It is recognized that they must put forward all the support or objections to a proposal in an impartial way, but they are then required to weigh the merits of a case and form a professional opinion whether or not a proposal should be recommended for approval or refusal taking into account all material planning considerations.	Ongoing reminders when appropriate.
2011/02	23/02/11	Officers must not display emotion by making inappropriate facial expressions in delivery of	n/a	Noted. A professional manner should be maintained at all	Ongoing reminders when appropriate.

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		reports. It must be remembered at all times that the decisions reached affect the lives very directly of those who submit planning applications and whilst an atmosphere of informality can sometimes assist in the flow of a debate there are firm professional boundaries that should never be compromised.		times.	
2011/03	23/02/11	Furthermore within the annual appraisal of senior officers, this issue should be highlighted and revisited particularly when their continuing professional development is encouraged.	n/a	Senior officers. Agreed, a high degree of professionalism should be emphasized. It would appear more appropriate to address such issues at the time of the incident and not await the annual appraisal process.	Ongoing reminders when appropriate.
2011/04	23/02/11	Officers in replying to complaints should consider carefully how the complaint appears through the complainer's eyes, when drafting the response and avoid the use of jargon, if possible.	n/a	Agreed, jargon can be the bane of professional life and we will strive to ensure that this is kept to a minimum.	Ongoing reminders when appropriate.
2011/05	23/02/11	I have specifically looked at whether the Authority should consider a digital recording system for debates at Development Management Committee and National Park Authority meetings so that should any issue arise in the future over what exactly was said it can be clarified. This should not be confused with any alteration to the current system of note-taking, but would avoid any argument as to the fairness or otherwise of comments made at debate. Clearly this has cost implications, especially to a small authority. I am not persuaded in the current economic climate this would provide a suitable benefit when weighed against cost. Additionally it would not record either facial expressions or in appropriate body language.	n/a	Noted. No recommendation implementable.	
2011/06	05/05/11	Accurate and full note taking of all meetings, and conversations with developers/applicants and builders must be put on planning files.	n/a	Agreed, a paper trail is essential and this has and will continue to be emphasized to all staff. There must be a robust paper	Ongoing reminders when appropriate.

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				<p>trail which shows the process and decisions reached.</p> <p>Procedure – record all site inspections, communications, telephone calls on SWIFT, Hermes or manually on ‘pink sheet’ with time, date, officer and action.</p> <p>Meetings – record agreements reached, send copy to agent with action points of expectation including timescales.</p> <p>Phone calls – template to be created for staff to record telephone discussions. Need to look at how messages can be extracted effectively from ‘Hermes’ and recorded on file.</p> <p>File Maintenance – review how manual files are created. Use transfer files instead of folders. Divide information into relevant sections with planning application file.</p> <p>Doesn’t need to be costly – use resources we have.</p> <p>Computer system – written notes on file need to be read in tandem with those on SWIFT.</p> <p>Training – staff to have continued training on SWIFT.</p>	
2011/07	05/05/11	There must be a clear process for measuring [site] levels with properly qualified people engaged to do this, either within the Authority or brought in on contract from without. The new validation process requires it. This is fundamental, as the costs of it not being done properly are significant. Although	n/a	Site level surveys are normally now required to support a planning application. There are significant cost implications but we have in-house surveying staff we can call on when	Ongoing reminders when appropriate.

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		this has cash implications in a time of financial restraint, there cannot be in future failure of such a basic component of an application. Very careful consideration should be given by senior management to establishing precisely how this can be done on a cost recoverable basis from the applicant/developer.		necessary to confirm levels. Validation procedure is now standardized. Notes to include:- Levels – datum point off site (which won't change) to be used. Scales – plans being sent back to agent if not-to-scale. Point made to check carefully between floor plans and elevations for inconsistencies. References – now being done on plans. North points – grid or north point is required on plans. In case of dispute eg inaccurate drawings the onus lies with applicant to provide correct information. The complexity of each application and need to verify levels with own staff/consultants will need to be considered on a case by case basis.	
2011/08	05/05/11	As there has been damage to the reputation and integrity of the Pembrokeshire Coast National Park Authority arising from poor communication, the Chief Executive should remind all members of the Authority's staff of the need to deal promptly with communications from members of the public and statutory consultees.	n/a	Noted. There are various targets for replies and therefore this system needs a comprehensive review to ensure consistency across the Authority.	<u>To be actioned by</u>
2011/09	05/05/11	¹ A formal recorded Meeting should be held with the Newport Town Council to seek to clarify any outstanding communication issues and to ensure that that organisation is accorded a formal apology for the delay in responding to its criticisms. ² In	n/a	¹ Meetings with Newport Town Council held regularly with Head of DM – see below. ² Noted where a specific answer is required.	

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		future, any correspondence from any statutory consultee should be answered properly. There should be regular meetings with them, and those meetings must be minuted. ³ If there are to be informal discussions with locally democratically elected bodies then the parameters of those discussions should be established in the clearest possible terms in advance so those participating councils and bodies can explain to their members and ultimately the local electors what they were told, when they were told it and by whom etc.		³ Noted. Regular meetings with Newport Town Council take place with Head of DM with an agenda, minutes publicized on Newport Town Council website. PCNPA also has copy of minutes. Note:- There would be a significant resource implication if all Community Councils requested such a service. However this is not an issue at present, but will be kept under review.	
2011/10	05/05/11	There is a need to avoid inaccuracies, clichés and jargon in reports. Without clear and accurate reports, the decision making process, with all its interested parties, is prejudiced. There is a need to ensure accurate and effective discussions with all relevant groups in the planning process i.e. members of the Authority, Community and Town councils, special interest groups and local individuals. The Authority's officers need to remind themselves that they all have a role in the planning process and their ability do so depends very much on clear and accurate reports.	n/a	Noted. See 2011/04. Report writing – the format has been changed to focus on key issues with clearly defined consultations and an Officer Summary. Swift system has the potential to be used for more accurate report writing and avoid wasting time. Checking of reports is normally done by Head of DM. It is recognized that officers will have need for on-going refresher training.	Ongoing reminders when appropriate.
2011/11	05/05/11	There is an urgent need to have a clear system in place, of liaison with the Building Regulation department of PCC and with the Environment Agency. I do not mean a "joint Committee" which meets half yearly. It requires something more specific so that any alterations to plans, or where on-site issues arise they can be immediately addressed. Senior management should submit a	n/a	A meeting was held with Pembrokeshire County Council Head of Building Regulations with the Director of Conservation and Planning and Head of DM to progress this issue. It should be noted that whilst the recommendation is	Ongoing reminders when appropriate.

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		proposal to the Authority for resolving this within 28 days. It is difficult to see how a planning consent can be effectively monitored when the actual building is done to another set of plans approved by another authority.		commendable, PCC does <u>not</u> deal with all BR applications and therefore any liaison will not result in comprehensive coverage. This is regrettable. An informal arrangement on a case by case basis is already in place with PCC, but private BR consultants are not engaged as such. Our enforcement team and its monitoring would also use information provided by PCC and staff can access records held by PCC online.	
2011/12	05/05/11	When decisions from Members are delegated to officers on outstanding issues on applications, they are returned to Members with clear detailed reports of the outcomes of those issues where Members had expressed concerns. This obligation becomes greater when amended plans are submitted to officers which differ from those submitted initially and available to the Members when they delegated. Furthermore the officer's report on delegated decisions is put on the file and not actually seen by Members, who only receive a report that the consent has been issued. They can only find out the detail if they inspect the file themselves. The effect in this case was that <u>three</u> sets of plans came in before the delegated decision was made, but <u>two</u> sets were never referred back to Members although sent to statutory consultees. Additionally it is inconsistent that a Member of a statutory consultee (NTC) had the amended plans to comment on but the Members of the Authority – as they had delegated the decision – did not and were consequently not aware of the details of the application when it was granted in October 2006. The “delegation to the Chief	08/11	Noted. This recommendation raises the fundamental question as to what exactly has been delegated. Amended/revised/updated plans are normally all part of the negotiation process. A list of delegated decisions is reported to Committee each month. Members also need to be mindful of the applicants need for speedy decisions and the ‘8 week’ etc. targets imposed by the Welsh Government. The delegation as operating now provides a ‘balance’ in the majority of cases. This apparent inconsistency may well be overcome with more clarity of what elements are being delegated should applications be put before	<u>To be undertaken</u>

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		Executive" procedure, which is, in practice, to officers should be critically reviewed and a report submitted to the Authority by senior management within three months.		Committee. Members views on this are requested.	
2011/13	05/05/11	The use of conditions on consents needs to be thoroughly reviewed by senior management. There is current WAG guidance that needs to be fully absorbed by each officer who prepares reports. Furthermore the Authority itself should, through senior management, lay down formal internal guidance to officers on the use of "conditions". As this case demonstrates it is a dangerous practice to in effect simply agree to agree in the future, by which time the building is erected. If a large number of conditions are thought necessary on a domestic building, then this should raise the question "Is the application properly validated?" In the past, there appears to have been a greater emphasis on trying to reach an amicable conclusion by dialogue but now there should be a greater adherence to the validation process now in place for new applications. There should also be standardised wording, in clear and simple terms where conditions are deemed to be necessary.	n/a	Welsh Government is in the process of revising 'standard' conditions – we are awaiting new guidance – due by the end of 2011. The Head of DM is involved in the Welsh Government review of conditions. In the meantime we have tightened up validation which results in better, clearer and more information being provided at submission stage, therefore it is often acceptable now to refer to approved drawing numbers e.g. landscaping, protected species reports and reports.	
2011/14	05/05/11	When a planning permission is issued with pre-commencement conditions management must ensure that these are met prior to works commencing on site. However before such a consent is issued consideration should be given as to whether it should be issued at all, if it requires a number of matters to be finally resolved.	n/a	Noted, but this recommendation is absolutely outside the control of officers. Applicants are reminded of need to comply with conditions etc. when planning permission is granted. Breaches are monitored and the enforcement policy has been introduced too.	
2011/15	05/05/11	The Authority's policy on its powers to stop developments during construction should be reviewed by its solicitor within 28 days and guidance given to officers so that they can demonstrate a	<u>06/11</u>	The Solicitor reviewed the Authority's policy on enforcement powers within 28 days as required, and conveyed	<u>To be undertaken</u>

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		<p>greater willingness to use the powers it possess to ensure compliance. There should be a seminar or Committee presentation, prepared by the Authority's solicitor, to ensure that all Members, planning and enforcement officers are aware of the current powers open to them and the most up to date guidance from the Welsh Assembly Government. This should be repeated at least annually, as part of an in house programme for continuing officer and Member continuing development.</p>		<p>his views to the Head of Development Management, who assimilated these into her Report to the June meeting of the Authority.</p> <p>In addition the Solicitor is scheduled to make a presentation to Members on Planning Enforcement on 19th October 2011, and also to Officers.</p> <p>It should be noted that the Stop Notice procedure is the only power we have to "stop" a development during construction – Temporary Stop Notices (available in England for several years) have not yet been introduced in Wales. Stop Notices can certainly be effective but are only appropriate in exceptional circumstances where there is significant harm to public interests, and the Authority always has to be wary of the risk of being exposed to paying substantial compensation.</p> <p>It should also be noted that all of our Enforcement Team are members of the association of Planning Enforcement Officers (NAPE) and that this body provides an excellent continuing</p>	

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				professional training programme.	
2011/16	05/05/11	When a complaint/information from the public is received about non compliance with conditions, a central database should be maintained on the Authority's computer system so that senior management are aware of the type, number and detail of the allegations of non compliance. Senior management should address this, by looking again at its current policy of enforcement management and including this in their review. It is fundamental that all staff are adequately trained are thoroughly familiar with the new computer system and its applications, particularly with regard to non-compliance with conditions.	n/a	Noted. The new SWIFT computer system should address this matter. Currently we are training up DM staff to be fully conversant with the SWIFT facilities – we have purchased the enforcement package as part of the programme.	
2011/17	05/05/11	Where there is an application for planning consent that an officer may reasonably suspect of being likely to attract significant public interest then there should be a process in place for it to be easily referred to senior officers so that a collective or collegiate approach can be undertaken in determining such an application. This will require the officers to use their experience in making this assessment as I recognise that at the outset such cases may not be easily recognisable. This should ensure that the objective of a consistent approach is maintained. A signing off process of such cases should be critically reviewed by senior management as the present system can be unfair to the individual officer and also to the applicants. Senior management will need to address the detail of how this is achieved.	n/a	Noted. However it may be difficult to advise at the initial stages if an application is likely to attract significant public interest as noted by the Monitoring Officer. The current 'signing off' procedure ensures that a higher level always scrutinizes the decision. Currently where officers recognize that there is significant public interest applications have been put forward for Committee consideration.	
2011/18	05/05/11	When the Authority is engaged in large scale disputes a clear overall budget should be prepared at the outset for the case. Where there are likely costs to outside contractors, be they barristers, solicitors, surveyors, planning experts then the	08/11	Noted, however this is difficult to achieve. The issue of large scale disputes has already been reviewed by the Finance Officer.	<u>To be progress</u>

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		potential aggregate of all the costs should be the deciding factor. I am aware that in other areas where public money is committed to funding litigation and, I include Public Inquiries in this, clear and concise case cost plans with the case carefully costed on the best information available should be done. Once a potential exposure of £25,000 is reached, specific authority should be obtained from the Chairman, the Chief Executive and the Section 151 Officer if the Authority is not able to meet quickly enough. The current system should be amended to give effect to this recommendation as quickly as possible and a report prepared by the Chief Executive to the Authority within three months.			
2011/19	03/08/11	The Guidance for the Delegated decision procedure should be re-examined to ensure that it is clearer and easily available to Members of the Authority and public e.g. by making it easily available on the website.	n/a	Noted. Report by Head of DM to NPA meeting in December 2011.	
2011/20	03/08/11	The fact that the Delegate decision procedure in existence at present was applied correctly, does not remove the need to give it reconsideration. In my view it needs revisiting to make the "calling in" procedure clear. In particular, the process for requesting "calls-in", needs to be clearly and unambiguously set out. When such requests are made then it is essential that material planning reasons be given on a "call in" request, which should be referred to in the planning officer's report.		Noted see 2011/19 above.	
2011/21	03/08/11	The Community Councils, who are statutory consultees should be given a further training course on how to engage more effectively with the statutory consultation process. There is some urgency over this now that the LDP has now been formally adopted. That training should be provide by the Authority's officers ,so that what is expected by the Authority in response is made clear and the	<u>10/11</u>	Noted. A questionnaire has recently gone to Community Councils asking how they would wish to be involved in training and in what areas they consider training would be helpful.	Partially progressed and analysis of Community council requirements being undertaken

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		Authority's officers can understand the limited financial ,staff and time resources very often available to the Community Councils when they respond. The training should specifically focus on how any objections or support to a planning proposal should be framed to ensure that such matters and concerns as the Community Councils have, are made clear and supported with material planning reasons. The goal should be to achieve a better and more consistent level of engagement, leading to a greater understanding of each other's roles in the planning and democratic process. I recommend this be started immediately and progress revised in two months.			
2011/22	03/08/11	I have established that other National Parks have encountered similar problems and this has been partly addressed by the use of a standard pro forma response document which should be prepared after consultation between the Authority and the Community Councils representative organization. The use of such a standard documentation would aid efficiency after appropriate training had been given.		This issue was noted in the questionnaire (see 2011/21) above. We will await Community Council's comments on this as a way forward.	Partially progressed and analysis of Community council requirements being undertaken
2011/23	03/08/11	To require county councillors to be made statutory consultees would require changes in legislation. This will take time and resources not readily available in the current financial climate. In my view that does not preclude work being undertaken now to prepare a non statutory scheme that would enable members of the adjoining authority being informed of pending applications and thus giving them an opportunity to comment . It must also be remembered that applications for planning permission are already published electronically on the web by the Authority on its website. This is not inconsistent with the approach alluded to in the Welsh Government's response to the	<u>10/11</u>	Noted. Our Committee Section has e-mailed all PCC Councillors asking if they wish to receive alert e-mails with regard to planning application progress including our Committee Agendas and Planning Applications received.	

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		<p>recommendations made in “Study to examine the planning process in Wales”, in particular its response to recommendation 7</p> <p>http://wales.gov.uk/docs/desh/publications/100622w_agresponseen.pdf. This review is still continuing with another phase of consultation due in the Autumn of 2010. The complainant will be free to submit his response to that consultation then. With the use of technology a programme to develop this should be implemented with a time scale of 6 months. Apart from notifying the local members, such a programme would enable them to familiar with the Authority’s revised “call in” procedure. This does however depend on them being prepared to engage with the Authority and so a formal approach should be made sooner rather than later. I recommend no later than October 2011 for this process to begin.</p>			