

REPORT OF ADMINISTRATION & DEMOCRATIC SERVICES MANAGER

SUBJECT: DISCIPLINARY AND GRIEVANCE COMMITTEES

Purpose of the report

To establish and adopt the composition and terms of reference of Disciplinary and Grievance Committees.

Background

The National Park Authorities (Wales) (Amendment) Order 2007, which came into force on the 31st December 2007, resulted in the membership of the Pembrokeshire Coast National Park Authority increasing from fifteen to eighteen Members. This increase posed problems in relation to the membership of the Authority's then Disciplinary and Appeal Committees and they were, as a result, disbanded pending a review.

While the Authority has been fortunate in that it has not been necessary to convene either Committee in the interim, it is recommended that such Committees should be in place.

Specifics – Disciplinary

- (a) The Authority's Disciplinary Procedure states that an employee (other than a Chief Officer, i.e. the Chief Executive, Section 151 Officer¹ and Monitoring Officer) who has been dismissed can appeal against that decision to a Panel of Members. The membership of that Panel is currently referred to in the Disciplinary Procedure as:

Chairs of the Authority, and Performance Review and Development Management Committees plus three other Members as determined at the Annual General Meeting.

- (b) With regard to the Chief Executive (in his role as Head of Paid Service), the Section 151 Officer and the Monitoring Officer, The Local Authorities Standing Orders (Wales) Regulations 2006 require that a Designated Independent Person is appointed by Members to investigate and make recommendations in the event of disciplinary action being taken against them on the grounds of misconduct, or if there is any other proposal to dismiss them for any reason other than redundancy, permanent ill health or the expiry of a fixed term contract (unless the Authority has undertaken to renew that fixed term contract). The Joint Negotiating Committee (JNC) advises that every local authority should establish an Investigating and Disciplinary Committee to appoint a Designated Independent Person to undertake the initial investigation and to consider any recommendations arising therefrom.

¹ The Authority's Finance Manager also undertakes the role of Section 151 Officer. Any reference to the Section 151 Officer implies that role only

JNC advice goes on to say that any appeal against action short of dismissal should be heard by a Committee comprising Members who are not Members of the Investigating and Disciplinary Committee. (It should be noted that any recommendation from an Investigating and Disciplinary Committee to dismiss a Chief Officer has to be considered and approved by the Authority, therefore this constitutes the appeal in such circumstances.)

Specifics – Grievance

- (i) The JNC also advises that every local authority should have in place a Grievance Committee to consider grievances brought against the Chief Executive, where the matter has not been resolved at informal stage. Again, the JNC advises that the membership differs from that of the Investigating and Disciplinary Committee. It is recommended that this procedure also applies to the roles of Section 151 Officer and Monitoring Officer.
- (ii) Members are not involved in considering grievances brought against a member of staff who is not a Chief Officer.

Way forward

In light of the above, it will be necessary to establish a number of Committees to deal with all eventualities:

- A. An Appeals Committee to consider appeals against dismissal from members of staff;
- B. An Investigating and Disciplinary Committee to deal with disciplinary action against a Chief Officer;
- C. An Appeals Committee to consider appeals against action short of dismissal from a Chief Officer, and
- D. A Grievance Committee to consider a grievance made against a Chief Officer.

The proposed Terms of Reference for each Committee are appended to this report.

Options

- I. Four Committees to be established, comprising 4 Members each;
- II. Three Committees to be established, comprising 6 Members each. In this scenario, only one Appeals Committee would be established to consider the circumstances referred to in A and C above, or
- III. Three Committees to be established, as in II above, but comprising 5 Members each. JNC guidance recommends that an element of flexibility should be incorporated into the composition of any Committee in the event of a Member having a conflict of interest. An odd number would also not require the Chair of the Committee to have to resort to using a casting vote.

It is recommended that Option III be adopted.

Financial considerations

There would be a possible cost incurred should a Designated Independent Person have to be appointed to investigate a disciplinary matter.

Risk considerations

The Authority is not complying with Joint Negotiating Committee and ACAS guidance in respect of being able to deal with disciplinary or grievance matters. In addition, the delay involved in establishing the relevant Committee to consider a disciplinary or grievance issue could cause additional distress to the person involved.

Compliance

The proposal complies with Corporate Objective 4: The National Park Authority is recognised as meeting good practice standards in terms of governance, providing value for money and listening to the views of residents, visitors and partners.

Human Rights/Equality issues

The rights of the individual to be heard and to defend him/herself will be protected by the establishment of these Committees.

Biodiversity implications/Sustainability appraisal

The report has no Biodiversity/sustainability implications.

Welsh Language statement

The report has no implications for the Authority's Welsh Language Scheme.

RECOMMENDATIONS

1. **That three Committees comprising 5 Members each be established:**
 - (a) **Investigating and Disciplinary Committee;**
 - (b) **Grievance Committee, and**
 - (c) **Appeals Committee.**
2. **That the Terms of Reference for each Committee, as appended to this report, be adopted.**
3. **That the Grievance Committee also consider any grievance brought against the roles of the Section 151 Officer and the Monitoring Officer.**

(For further information, please contact Janet Evans, Administration & Democratic Services Manager on extension 4834, or by e-mailing janete@pembrokeshirecoast.org.uk)

Background information

*The National Park Authorities (Wales) (Amendment) Order 2007
Pembrokeshire Coast National Park Authority Disciplinary Procedure
Report to, and minutes of, the National Park Authority: 25th June 2008
The Local Authorities Standing Orders (Wales) Regulations 2006
Joint Negotiating Committee guidance*

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TERMS OF REFERENCE

INVESTIGATING AND DISCIPLINARY COMMITTEE

Composition

5 Members, comprising 3 County Council and 2 Welsh Government Members

Members cannot be Members of the Grievance Committee or Appeals Committee.

Quorum

3 Members (2 County Council and 1 Welsh Government Member)

Remit

To consider and determine matters relating to the following issues in accordance with agreed procedures as fall to it to make under those procedures, including:

- (a) the consideration of any disciplinary action being taken against a Chief Officer (i.e. Chief Executive, Section 151 Officer or Monitoring Officer) on the grounds of misconduct, or if there is any other proposal to dismiss them for any reason other than redundancy, permanent ill health or the expiry of a fixed term contract (unless the Authority has undertaken to renew that fixed term contract);
- (b) the consideration of any allegation against a Chief Officer personally, whether or not the matter has been raised by the employee under the Authority's grievance procedure;
- (c) the appointment of a Designated Independent Person to undertake the initial investigation;
- (d) the receipt and consideration of the report of the Designated Independent Person with a view to either:
 - (i) determining whether any further action (short of dismissal) is necessary and, if so, what action, or
 - (ii) recommending to the Authority that the Chief Officer concerned be dismissed.
- (e) the consideration of a grievance raised by a Chief Officer relating to a case of disciplinary proceedings against him/her.

GRIEVANCE COMMITTEE

Composition

5 Members, comprising 3 County Council and 2 Welsh Government Members

Members cannot be Members of the Investigating and Disciplinary Committee or the Appeals Committee

Quorum

3 Members (2 County Council and 1 Welsh Government Member)

Remit

To consider and determine matters relating to the following issues in accordance with agreed procedures as fall to it to make under those procedures, including:

To consider:

- (a) an appeal from a member of staff who has brought a grievance against a Chief Officer, but whose grievance has not been upheld by the initial investigating officer;
- (b) to consider any unresolved remedial action proposed by the initial investigating officer following a grievance brought against a Chief Officer being upheld, or
- (c) a grievance brought by a Chief Officer against a Member.

To determine:

- (a) whether the grievance can be upheld and, if so:
 - (i) to determine how the matter can best be resolved to the satisfaction of the aggrieved employee, or
 - (ii) in the case of an aggrieved employee, to refer the matter to the Investigating and Disciplinary Committee if the matter is considered to be of such a serious nature, or
 - (iii) in the case of an aggrieved Chief Officer, to refer the matter to the Standards Committee for consideration.
- (b) whether the grievance can be dismissed.

APPEALS COMMITTEE

Composition

5 Members, comprising 3 County Council and 2 Welsh Government Members

Members cannot be Members of the Investigating and Disciplinary Committee or the Grievance Committee

Quorum

3 Members (2 County Council and 1 Welsh Government Member)

Remit

To consider and determine matters relating to the following issues in accordance with agreed procedures as fall to it to make under those procedures, including:

To consider:

- (a) an appeal against dismissal from a member of staff other than a Chief Officer, and
- (b) an appeal against action short of dismissal from a Chief Officer.