

Democracy, accountability and our National Park Boards

Description

On 8th February, a few days after my post on [freedom-speech-democracy-national-parks](#) Peter Argyle, Convener of the Cairngorms National Park Authority, posted a Statement on [Cairngorms News](#) about his dispute with Board Member Councillor Bill Lobban titled "Convener Clear on Code of Conduct".

Its positive that Peter Argyle has been open about this because what he has done, albeit inadvertently, is to highlight a fundamental contradiction at the heart of the Code of Conduct.

The issue that has arisen is emphatically not about Mr Lobban's right to speak out or support his constituents as a councillor. It is not about freedom of speech. It is simply about the duties imposed upon him and all of us on the CNPA board by the [Code of Conduct](#) which we all signed up to when appointed to the board. It specifically requires us to act at all times in the best interests of the CNPA.

The relevant part of the Code of Conduct which Peter Argyle refers to comes under "General Principles":

Duty

12. You have a duty to uphold the law and act in accordance with the law and the public trust placed in you. You have a duty to act in the interests of the Cairngorms National Park Authority of which you are a member and in accordance with the core functions and duties of that body.

Peter Argyle has then interpreted this as requiring Bill Lobban to agree with CNPA Board Policy:

My actions and discussions were directed solely to try to resolve a situation of a Board member's personal opinion being at odds with the agreed policy of the Board.

However, as he is a Councillor, Bill Lobban is also bound by the Code of Conduct for Highland Council and guess what, this also includes, under the section on General Principles, a clause on Duty:

Duty

You have a duty to uphold the law and act in accordance with the law and the public trust placed in you. You have a duty to act in the interests of the Council as a whole and all the communities served by it and a duty to be accessible to all the people of the area for which you have been elected to serve, and to represent their interests conscientiously.

If this clause had the meaning that Peter Argyle imputes to it, that every member of the Board should on all occasions support Board policy, every councillor on our National Park Boards would be in an impossible position each time their Council adopted a different policy position to that of the National Park. What duty should be put first, the duty to the National Park or the duty to the Council? This doesn't just affect Councillors as some National Park Board Members also serve on other Boards that are also governed by a Code of Conduct with a similar duty clause. What this shows is there cannot be a duty on Board Members always to uphold Board Policy.

This though has not prevented our National Park Conveners acting as if there was an absolute duty on Board Members to uphold Board Policy. In the case of the Loch Lomond and Trossachs National Park Authority its been taken so far that any disagreements between Board Members are resolved in secret Board Briefing Sessions and then all decisions are agreed unanimously. In the case of the camping byelaws, strict instructions were issued telling Board Members they could not talk to the media. Thank goodness therefore Councillor Bill Lobban was prepared to go public about his disagreement on planning policy and that his local paper was prepared to carry the story.

Our National Park Authorities, ability to silence debate and opposition is helped by the wording of the Duty clause. In the Council Code of Conduct the duty on councillors is not just to uphold the law and act in the interests of the Council as a whole but to act in the wider interests of all communities and to represent the views of the community which elected them. This allows Councillors to speak out against their own council policies or actions. The Council Code of Conduct in effect recognises that the interests of the Council, as a public authority, may not be the same as the people who have an interest in it, ie local residents.

The National Park Code is significantly different. The only duty on Board Member is to uphold the law and the interests of the public authority. There is no duty to anyone or anything else. Even the locally elected representatives to the Board have NO duty to represent the views of the people who elected them. This is very wrong. It puts the interests of the National Park Authority, which is only an organisation, before that of the people who live in the National Park or the people who visit there is no duty to represent national interests, such as outdoor recreation and no duty to protect nature.

What needs to happen

The Duty clause in the Code of Conduct for our National Parks the LLTNPA one is very similar needs to change. I would like to see it become about upholding the four statutory aims of the National Park rather than upholding the interests of the National Park Authority, which basically means the interests of staff and Board Members.

Such a change would, I believe, encourage open debate and allow room for disagreement on the National Park Board because interpretation of those four statutory aims (ie conservation of nature, enjoyment, sustainable use of resources and sustainable economic and social development of local communities).varies. It would enable Board Members to speak out, for example, against inaction on raptor persecution, which contravenes the conservation aim of our National Parks, or on the LLTNPA

camping byelaws which will stop people enjoying the countryside. It would I believe help Board Members focus on the fundamental issues, such as how planning powers could be used more effectively to achieve the statutory aims of the National Park, rather than the question of whether planning applications are best dealt with by Highland Council or the CNPA which led to the dispute between Peter Argyle and Bill Lobban.

Category

1. Cairngorms
2. Loch Lomond and Trossachs

Tags

1. CNPA
2. Governance
3. LLTNPA

Date Created

February 16, 2017

Author

nickkempe

default watermark