

The gagging of National Park Board Members and governance of NDPBs

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Readers' letters

Code of conduct not used correctly

THE convener of the Cairngorms National Park Authority (CNPA) seems to have let his position go to his head (Strathy letters, 16 February) in suggesting that Highland councillor Bill Lobban is bound by the CNPA's code of conduct to suppress his opposition to its recent decision to press for all planning powers to be vested in the park.

The fact that the code requires CNPA board members to "act at all times in the best interests of the park" should not be used to silence opposition to a policy position the board has taken (moreover in this case it is debatable whether the best interests of the park would be served by its attempt to gain more planning powers).

No doubt Councillor Lobban made his views clear before the policy position was reached and it helps no one to suggest he should now be silent and pretend he agrees with something he previously opposed – and it is entirely legitimate for him now to make sure that the Scottish Government know that the board decision to press for more powers was not unanimous.



PLANNING ROW: CNPA board convener Peter Argyle (left) with B stand down as a board member by Mr Argyle for speaking out in CNPA wanting to have full planning powers. The convener has d

He was appointed as a nominee of Highland Council, as the CNPA board is a representative body with a mix of local government nominees and Scottish Government appointees.

It is therefore quite understandable that he should want to give a local government perspective on the CNPA bid for more power.

Consultation about public policy by its very nature will produce differing views and the convener will help no one by trying to suppress legitimate opinions from knowledgeable and public spirited

people on his board with and presumably a major board, disagrees.

As it happens I disagree Councillor Lobban and about the case for transferring powers to the park for re to local government.

I believe the current p recommended by Scottish Heritage (SNH) when I v board is about right – wi matters decided ultimately democratically elected c and strategic issues by th

Following my posts ([see here](#)) and ([here](#)) on the rights of and need for National Park Board Members to speak out, this excellent letter appeared in the Strathie this week. (I know Peter very slightly, he preceded me on the Board of SNH, but I have not had contact with him for c 10 years).

What I think Peter has missed – and which I have only found out in the last week – is that the right to speak out is not just about the Code of Conduct but also the CNPA's Standing Orders (the rules which set out how the Board operates). They include this clause:

30. Board Members share corporate responsibility for decisions taken by the Board as a whole. Members must therefore either accept and publicly support the collective decision of the Board or resign. Members must respect the confidentiality of sensitive information held by the organisation, as well as the discussions and papers taken in private session.

In other words, once the Park Board has taken a decision, Board Members are gagged under the rules of the Park. While Peter Argyle denies that he tried to get Cllr Lobban to resign, it appears if he had done so he would have only have been following the rules of the National Park.

I found this quite extraordinary so I checked the rules of three other environmental Non-Departmental Public Bodies. Neither SNH or the Loch Lomond and Trossachs National Park contain similar clauses in their Standing Orders. However, the Scottish Environment Protection Agency has a similar if less draconian gagging clause:

Collective Responsibility and Confidentiality

79. SEPA's boards and committees operate on the basis of collective responsibility for decisions. Members are therefore expected, if questioned on a matter where a board or committee has taken a view, to support the position reached

The gagging clauses appear to be incompatible with the Code of Conduct for Board Members. For example all four Boards have a clause in their Code of Conduct on Accountability and Stewardship which reads as follows:

You are accountable for your decisions and actions to the public. You have a duty to consider issues on their merits, taking account of the views of others and must ensure that

SNH uses its resources prudently and in accordance with the law.

It appears that the CNPA is try to make Members accountable to itself rather than to the public. This is wrong.

That this is not just a National Park or environmental NDPB issue is demonstrated by Paul Hutcheon's investigation in Friday's Herald on the resignation of Moi Ali from the Scottish Police Authority after the chair tried to silence her ([see here](#)). The parallels with CNPA Board Convener Peter Argyle's alleged attempt to silence Cllr Bill Lobban are striking and one can't help thinking that Moi Ali should have followed Cllr Lobban's lead and refused to resign.

The story also mirrors other things that have been happening in our National Parks. The Scottish Police Authority's attempt to delay publication of Board Papers until the day of the meeting mirrors the LLTNPA decision in 2015 to change their Standing Orders so that papers only needed to be published 3 days (instead of 7) before meetings. If you don't know what's on the agenda of course, you don't know if its worth attending. The increasing propensity of the SPA to meet in private, which led to Moi Ali's resignation, is nothing compared to the LLTNPA which developed the camping byelaws which are due to come into force next week over 12 secret Board Briefing sessions between September 2013 and April 2015. Moi Ali's observation that "If dissent is only allowed privately, then I think decision-making becomes enshrouded in a type of fog" seems a pretty good description of the byelaw making process.

What the experience of the LLTNPA also demonstrates is that you don't need formal gagging orders enshrined in Standing Orders in order to silence Board Members. The problems go far deeper than that and appear to be linked to a style of leadership which appears authoritarian rather than democratic.

What needs to happen

The inclusion of gagging orders in NDPB Standing Orders conflicts with the Code of Conduct for Ethical Standards in Public Life for Members of those Boards. While members of the CNPA Board therefore need to review their standing orders, the Standards Commission which oversees and enforces the Code of Conduct for NDPB Board Members, should have a role here. What the public, to whom Board Members are accountable, deserve to know is the extent to which Board rules and practices enable and facilitate individual members to abide by their Codes of Conduct.

The Scottish Government also needs to start taking an interest in how our National Parks operate and to introduce reforms which would increase transparency and public accountability. That should include the abolition of gagging orders – what is a Board Member not even allowed to approach the Minister if s/he thinks a decision by the Board is fundamentally flawed. I would also like these to include a requirement that Board Meetings should always be held in public (with any confidential business held in private at the end of the meeting), that all Board Meeting should be recorded as available as pod/broadcasts for at least a year after the meeting and that papers for meetings should appear at least one week before the meeting is held.

Category

1. Cairngorms
2. Loch Lomond and Trossachs

Tags

1. Camping bye laws
2. CNPA
3. Governance
4. LLTNPA
5. Scottish Government
6. secrecy

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