

Report to	Standards Committee
Date	11 February 2011
By	Monitoring Officer
Title of Report	Local Protocol for Member and Officer Relations
Purpose of Report	To advise the Authority on the adoption of a protocol

Recommendation: That, subject to the comments of Standards Committee Members, the draft Protocol is recommended to the Authority for approval

1. Introduction

- 1.1 This report concerns a proposal that the Authority adopt a Local Protocol for Member and Officer Relations. Comments of the Standards Committee are being invited on a draft Protocol, **appended** to this report. Subject to comments, it is proposed to report a final document to the Authority meeting in March 2011 for adoption

2. Background

- 2.1 It is normal practice for a local authority to adopt a local protocol setting out the principles that underpin good effective working relationships between the authority's members and officers. Such a protocol can serve a useful purpose in defining the unique characteristics of the role of member, and that of officer, clarifying the rights and responsibilities of each and the expectations of each other. A number of situations where issues could potentially arise can be examined, and guidance given as to the behaviours that should apply.

3 A Draft Protocol for the South Downs National Park Authority

- 3.1 A draft protocol is attached. This has been drafted with regard to similar protocols in place with other local authorities, including national park authorities. It deals with a number of subject areas where issues could potentially arise, such as:

- Mutual respect and courtesy
- Characteristics of good working relationships
- Rights to inspect documents
- Maintaining confidentiality
- Relationships between Chairs and Senior Officers
- Dealing with the press
- Member use of support services

4. Resources

- 4.1 Once a protocol is adopted, it is intended that this will minimise the time that would otherwise need to be committed to dealing with issues or disputes that may arise out of member and officer relationships.
- 4.2 It is proposed that training on the protocol would be arranged for Members and officers, and that the protocol would be reviewed and updated from time to time in the light of

changes in law and practice, and having regard to experience and lessons learned from individual situations.

5. Risk Management

- 5.1 The Protocol would form an important part of the Authority's risk management arrangements by promoting appropriate behaviour in the Authority's dealings, thereby minimising the likelihood of disputes and liabilities arising, and complaints being upheld.

6. Human Rights, Equalities, Health and Safety

- 6.1 The aim of the protocol is to ensure that Members and officers are treated fairly and consistently in carrying out the Authority's business, and understand what standards of behaviour they can each expect of each other.

7. External Consultees

- 7.1 None.

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Appendices	Local Protocol for Members and Officer Relations
SDNPA Consultees	Interim Chief Executive Officer, Interim Director of Corporate Services, Interim Head of Planning, Head of Operations, Interim Chief Finance Officer, Interim Deputy Chief Finance Officer, Interim Monitoring Officer & Interim Senior Solicitor.

SOUTH DOWNS NATIONAL PARK AUTHORITY

LOCAL PROTOCOL FOR MEMBER AND OFFICER RELATIONS (DRAFT)

1 INTRODUCTION

- 1.1 The Authority regards the development and maintenance of excellent working relationships between Members and officers as integral to its business. Accordingly, this protocol is intended to guide Members and officers of the Authority in their relations with one another, by offering clarity and certainty in a number of important areas.
- 1.2 The protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and officers. The shared objective of these Codes is to enhance and maintain the integrity of the Authority in the eyes of the people it serves.
- 1.3 In this Protocol the terms "Member/s" includes Independent Member/s.

2 EXPECTATIONS

- 2.1 Members and officers have distinct roles to play in supporting the Authority. Members represent the wider public and serve for a defined term of office. Officers give advice to Members and carry out the Authority's work under the direction and control of the Authority and its Committees.

Expectations of Officers

- 2.2 Members can expect from officers:
 - a commitment to the Authority as a whole and not only to any part of it
 - respect and courtesy
 - the highest standards of integrity
 - a working partnership
 - an understanding of and support for respective roles, workloads and pressures
 - timely responses to enquiries and complaints
 - professional advice, not influenced by political views or preference, which does not compromise the political neutrality of officers
 - regular up to date information that can be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions they hold
 - awareness of and sensitivity to the political environment
 - training and development in order to carry out their role effectively
 - appropriate confidentiality
 - that they will not use their relationship with Members to seek to advance their personal interests or to influence decisions improperly

- support for the role of Members within the arrangements made by Authority
- compliance with the Officers' Code of Conduct and protocols at all times.

Expectations of Members

2.3 Officers can expect from Members:

- respect and courtesy
- the highest standards of integrity
- a working partnership
- an understanding of and support for respective roles, workloads and pressures
- leadership
- not to be subject to bullying, or discrimination or to be put under undue pressure
- that Members will not use their position or relationship with officers to seek to advance their personal interests or those of others or to influence decisions improperly
- compliance with the Members' Code of Conduct and protocols at all times.

Working Relationships

- 2.6 Both Members and officers should take care not to give the impression that their distinct roles have become blurred in some way. Maintaining confidence in the separation of these roles necessarily imposes limitations on behaviour. Members and officers should exercise caution in forming close personal friendships between each other. This can confuse their separate roles and affect the proper discharge of the Authority's functions. The perception could be in others that a particular Member or officer may be able to secure advantageous treatment as a result of such a friendship. Where a relative of, or person with a close association with, an employee becomes a Member of the Authority the employee should make the circumstances known to the Chief Executive.
- 2.7 Any act against an individual officer may be regarded as a form of bullying, intimidation or harassment if it is intended to influence unfairly that person's actions, thoughts or deeds. Whilst no policy statement can give guidance on every instance, where such behaviour may occur the Authority is committed to promoting standards of behaviour which reflect the proper, professional, working relationship which should exist between Members and officers at all times and to ensure normal standards of courtesy and behaviour between individuals.
- 2.8 All dealings between Members and officers should, therefore, observe reasonable standards of courtesy and neither party should seek to take advantage of their position. On occasions, Members may have reason to complain about the conduct or performance of an officer. All such complaints should be made personally to the Chief Executive or the Monitoring Officer. It is particularly important that such complaints are made in this way and are not aired in public such as at a meeting of the Authority or its Committees or other external bodies, or in the press.
- 2.9 The corollary to the Member's concern about an officer's performance is a concern by an officer in relation to a Member's conduct. All such concerns should be brought personally to the attention of the Chief Executive or the Monitoring Officer. They will if necessary discuss the matter with the Chair of the Authority and, where appropriate, with the Chair of the Committee affected. Officers should also have regard to the Authority's whistle blowing

policy, which provides further options for raising certain serious concerns about conduct.

3 ROLE OF MEMBERS

- 3.1 The role of the Member is to foster and promote the core statutory purposes of the National Park and, in so doing:
- to provide strategic leadership and direction
 - to have regard to and contribute to the development of national and regional policies
 - to monitor, review scrutinise and debate strategies, policies plans and performance
 - to participate in community engagement with all stakeholders
 - to represent the Authority to the public and stakeholders at all levels
 - to represent national and local interests on the Authority.
- 3.2 The role of a Committee Chair is legally recognised for procedural purposes such as chairing meetings and exercising a casting vote. The role also involves working closely with officers and acting as the Authority's external 'spokesperson' on those issues.
- 3.3 Lead Members may be appointed with the role of working with officers in driving forward new areas of work or where a transformation or stepped change is required in strategies or services. Lead Members need to ensure that in exercising their role that this does not conflict or become confused with the role of the relevant Committee Chair.

4 RESPONSIBILITIES OF MEMBERS

- 4.1 All Members appointed to the Authority have equal status, equal opportunity to hold office and are equally responsible. Members are expected to be equally committed to fulfilling the purposes for which National Parks exist and accept their appointment to the Authority with that commitment in mind.
- 4.2 Members of a National Park Authority, in their individual capacity, have no executive powers and can exercise no lawful authority to make decisions.
- 4.3 Members should be able to leave the day-to-day implementation of policies, including management to officers. Members have a right to ensure that their decisions for which they are statutorily responsible and accountable are implemented by officers. Officers should demonstrate that they are sensitive to Members' aspirations underlying those policies.

5 RIGHTS AND DUTIES OF MEMBERS

- 5.1 There are other clear rights for individual Members, principally:
- rights of access to Authority and Committee papers
 - rights to attend meetings
 - rights to see the accounts and make copies, and before the annual audit to inspect specific books, contracts, bills etc
 - rights to receive approved allowances.

5.2 There are also duties on individual Members, principally:

- to abide by the Authority's Members' Code of Conduct and locally adopted protocols
- to register their personal interests, including the receipt of gifts or hospitality with an estimated value of at least £25, and keep the information up to date
- to disclose personal and prejudicial interests in any matter before meetings of the Authority, and its Committees
- to attend meetings of the Authority and its Committees, other events and any outside bodies to which they have been appointed
- to attend and participate in opportunities for training and development
- to take carefully into account advice provided by the Chief Executive or officers of the Authority.

6 INSPECTION OF DOCUMENTS

- 6.1 The Authority wishes to conduct its affairs in an open and transparent way and to give Members maximum access to information and documents to enable them to discharge their role as Members of the Authority. Requests for information can range from general information about some aspect of the Authority's work to specific requests for information on behalf of a member of the public. Under the Freedom of Information Act, both members of the public and Members of the Authority have the same rights of access to information. However, some types of information, such as information that would infringe someone's Data Protection Act rights or breach confidentiality, or where release of the information would prejudice an investigation, are exempt from the Act. Where requests for information are made by a Member on behalf of a member of the public, the Authority Member should make this clear at the time of making the request. Such requests should be made to senior officers to avoid putting junior staff in a difficult position. This type of request will be treated in the same way under the Freedom of Information Act as if the member of the public has asked for the information direct. Consequently, information which is disclosed will become publicly available
- 6.2 The legal rights of Members to inspect Authority documents are covered partly by statute (the Local Government Acts) and partly by the common law. A Member will be permitted access to private Authority documents if he or she can demonstrate that access to the documents is reasonably necessary to enable him or her properly to perform his or her duties as a Member (the "need to know" principle). Unlike the position under the Freedom of Information Act, documents to which the Member is granted access, in connection with their duties, will remain for the Member's information only, and will not become publicly available.
- 6.3 Members wishing to inspect or obtain a copy of information which is in the public domain should approach the relevant officer in writing or by email.
- 6.4 Where information is not in the public domain, or there is doubt about this, an approach should be made to the Chief Executive or the Monitoring Officer. The Chief Executive (with advice, where necessary, from the Monitoring Officer) will decide whether the information can be released. The Member will be expected to justify the request in specific terms. In the event of a dispute, the Standards Committee will be asked to determine the matter.

7 CONFIDENTIALITY OF REPORTS

- 7.1 Senior officers who author reports to the Authority and its Committees have a duty to satisfy themselves that their reports are only classified as 'exempt information' or

'confidential information' when the relevant statutory criteria for this are met as set out in the Local Government Act 1972. The Chief Executive has an overriding responsibility to determine this compliance.

- 7.2 Once a report has been issued with Part II of the agenda for a meeting a Member must respect the confidentiality of the report and (subject to Paragraph 7.4 below) not disclose its contents to a third party. However this restriction does not apply if the Committee decides at the meeting that the report should be discussed in the presence of the press and public.
- 7.3 It does not however follow that all the contents of the report must be regarded as confidential. It may only be certain items of information or terms of negotiations that justify the inclusion of that report in Part II. Other aspects may be within the public domain or otherwise outside the definition of 'exempt'. A Member may accordingly refer to these aspects in discussions with third parties but must exercise proper care and judgement not to reveal those elements of the paper which are protected but it will also be prudent for that Member to consult with the Monitoring Officer before doing so.
- 7.4 While, in general, Members must not disclose confidential information, the Members' Code of Conduct does provide that this may be permissible where the disclosure is reasonable and in the public interest, and is made in good faith and in compliance with any reasonable requirements of the Authority. It should be appreciated that it is only in quite exceptional circumstances that the conditions justifying disclosure in the public interest will be met and that, if the necessary conditions are not met, Members are at risk of breaching the Code of Conduct and of compromising the position of the Authority. The guiding principle remains, therefore, that information which is received as confidential should, in general, remain confidential. Any Member who is of the view that disclosure may be justified in the public interest is required to take advice on the matter from the Monitoring Officer, before any disclosure is made.

8 ROLES AND RESPONSIBILITIES OF OFFICERS

- 8.1 A mutual and working understanding of the roles and responsibilities of officers is essential to the Authority developing and applying a clear and consistent approach to the role and responsibilities of its Members.
- 8.2 Officers, through reports, formal and informal advice, play an essential role in the formation and carrying out of the Authority's decisions and policies. If officers, in their professional judgement, consider a proposed course of action is imprudent they will advise Members accordingly. The prime responsibility of officers in the matter of all challengeable decisions is in advising Members before such decisions are reached. In such cases, the advice should include clear legal and financial advice on relevant factors and on how to approach decision-making. The fact that such advice has been given and considered will be material in any court proceedings that may follow in which the question of whether the Authority has properly applied its mind to the relevant issues is examined.
- 8.3 If despite officers' advice the Authority decides to proceed with its course of action, officers will implement the decision unless it contravenes their professional statutory codes of practice or ethics to such an extent as to place their continued professional practice at risk. In these circumstances an officer must take advice from the Monitoring Officer.
- 8.4 An officer is under a duty not to implement a decision or take any action that is unlawful. An officer will also not implement a decision where the Monitoring Officer or Chief Finance Officer has issued a statutory report that has not yet been considered by the Authority or has not yet been complied with.

9 ROLES OF SPECIFIC OFFICERS

9.1 There are four officer posts that have specific roles defined by statute:

i) Head of Paid Service: is under a duty, 'where he or she considers it appropriate' to report to the Authority and Members on:

- the manner in which the discharge by the Authority of its different functions is co-ordinated;
- the number and grades of staff required by the Authority for the discharge of its functions;
- the organisation of the Authority's staff; and
- the appointment and proper management of the Authority's staff.

ii) National Park Officer is the officer appointed by the Authority to be responsible to the Authority for the manner in which the carrying out of its statutory functions is co-ordinated.

iii) Chief Finance Officer: (designated under s.151 of the Local Government Act 1972) is responsible for the proper administration of the Authority's financial affairs. He or she is under a duty to report, to both Members of the Authority and to the District Auditor, any decision involving unlawful, (or potentially unlawful), expenditure by the Authority; any unlawful course of action likely to cause a loss or deficiency on the part of the Authority; or an unlawful entry of an item of account.

iv) Monitoring Officer: (designated under s.5 of the Local Government and Housing Act 1989) has a duty to put a formal report to the Authority where it appears that the Authority, its Committees or officers are involved in any proposal, decision or omission which is likely to be illegal or give rise to maladministration or injustice. It is also implicit in legislation, and indicated elsewhere in guidance, that the Monitoring Officer may give Informal advice, including to individual Members, and that they may also seek guidance on legal or propriety matters. The Monitoring Officer also has specific legal duties and powers in respect of the Members' Code of Conduct and the Standards Committee.

10 RELATIONSHIPS BETWEEN CHAIRS AND SENIOR OFFICERS

- 10.1 The Chief Executive and senior officers should foster close working relationships with the Authority Chair, Deputy Chair, and Committee Chairs and Deputy Chairs. However, these relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Chief Executive's or officer's ability to deal properly with other Members and to discharge his duty to serve the Authority as a whole. In some circumstances it may be necessary for the Chief Executive or a Director to bring forward reports on a particular matter in furtherance of this general duty.
- 10.2 The law only allows for decisions relating to the discharge of any of the Authority's functions to be taken under delegated authority by a Committee, Sub-Committee or an officer. Functions cannot be delegated to individual Members including Chairs.
- 10.3 Where action is likely to be required between meetings the usual method of authorising it is to delegate action to the Chief Executive in consultation with the Chair and/or a group of named Members. In such circumstances the Chief Executive remains responsible for the action delegated.

11 URGENT BUSINESS

- 11.1 Members or officers wishing to raise an item of urgent business should contact the Chief Executive before the meeting who will then discuss the request with the relevant Chair. The decision as to whether an item of business is urgent is one for the Chair of the meeting to take under powers within the Local Government Act 1972.

12 RELATIONS WITH THE PRESS AND MEDIA

- 12.1 Relations with the press and media need to be handled with care to ensure the Authority's position on any issue is represented properly. Day to day contact with the press and media will normally be handled by the Chief Executive. Where necessary they will consult with the Authority Chair and/or other Members. Where a media interview is needed on major, or Member, issues, the Chief Executive and the Chair will discuss who is to be the appropriate spokesperson. On occasions other Members may assume this role and similarly the Chief Executive may nominate one of his staff to speak on his/ her behalf.
- 12.2 On occasions other Members may be approached directly by the press and media and asked to make a comment or to appear for interview. In these circumstances Members are asked, where practicable, to discuss this first with the Chief Executive.
- 12.3 When Members have been authorised to speak on behalf of the Authority any contacts should be notified to the Chief Executive as soon as possible. They should make it clear that any 'personal' views they express are not necessarily those of the Authority. In all cases Members are asked to uphold the good name and integrity of the Authority.

13 SUPPORT SERVICES TO MEMBERS

- 13.1 The only basis on which the Authority can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport etc) to Members is to assist them in discharging their role as members of the Authority. Such support services must therefore only be used for Authority business and never in connection with party political or campaigning activity or for private purposes.

14 ATTENDANCE OF MEMBERS AT MEETINGS ARRANGED BY OFFICERS

- 14.1 Within the Authority, Members are free at any time to meet officers to discuss aspects of the Authority's business.
- 14.2 Officers will arrange many meetings with colleagues or third parties to discharge the routine business of the Authority or to action its decisions. The convention is that Members will not be present at these meetings but will be advised either informally or through reports to Committees, of any relevant discussions and/or outcomes. There may be occasions where a Member may be invited to attend a meeting by the appropriate officer or by a resolution of a Committee.

15 TRAINING AND BRIEFING

- 15.1 Training and briefings on the operation of this Protocol will be arranged as required.

16 ADVICE

- 16.1 The Authority's Monitoring Officer will give advice on the interpretation and operation of this Protocol.

17 REVIEW

- 17.1 The operation of the protocol shall be reviewed from time to time and updated in the light of any changes in law and practice, and to apply lessons learned in particular situations that have arisen.

Adopted by the South Downs National Park Authority

Date: March 2011