

Report to	Standards Committee
Date	27 February 2012
By	Monitoring Officer
Title of Report	Review of Governance Documents
Purpose of Report	To initiate a first annual review of the Authority's Local Protocol for Members and Officers dealing with Planning Matters, Local Protocol for Member and Officer Relations and Officer Code of Conduct

Recommendation: That it be a recommendation to the Authority that
(1) a review of the Local Protocol for Members and Officers dealing with Planning Matters, Local Protocol for Member and Officer Relations and Officer Code of Conduct be initiated, the outcome of that review to be considered at the Authority's annual meeting in June 2012, and
(2) pending that review, certain minor changes as set out in the appendices be agreed, to ensure legal compliance

1. Introduction and Summary

- 1.1 On the 29 March 2011 the Authority adopted a suite of documentation that makes an important contribution to good governance. The documents are: a Local Protocol for Members and Officers dealing with Planning Matters, a Local Protocol for Member and Officer Relations, an Officer Code of Conduct and a Complaints, Compliments and Comments Policy. The draft documents had been considered by Standards Committee on 11 February 2011 and, in the case of the Local Protocol for Members and Officers dealing with Planning Matters, by the Planning Committee on 14 February 2011. Various comments made by Members had also been incorporated.
- 1.2 Approval was given on the basis that the documents should be subject to a review in March 2012 after a period of a year in operation. The purpose of this report is to facilitate that review, so that a way forward can be recommended to full Authority for approval in March.
- 1.3 The way forward suggested is that a more in-depth review be carried out, the outcome of this review being considered by the Authority at its annual meeting in June 2012. This is due to the following factors:
 - Following completion of its interim "set-up" phase, the Authority now has in place its long term Chief Executive and corporate management team, and a larger officer establishment than was the case in March 2011. The Authority will therefore be reviewing generally the respective roles of Members and officers in developing and implementing strategy, an initial workshop event having been scheduled for 23 February. It is felt therefore that to complete the review before that process has concluded would be premature.
 - A further consideration is that, under the Localism Act, there will be changes to the Members' Code of Conduct, which underpins many of the principles reflected in the documents. These changes are expected to come into effect in July 2012, and it is planned that the Authority's new Code of Conduct will be adopted at the annual meeting in June.

- A period of three months will allow not only Members, but the officer establishment, to be engaged in greater discussion about the role of Members and officers, and the values and behaviours required, in making an effective contribution to the Authority's business.

2. Local Protocol for Members and Officers dealing with Planning Matters

- 2.1 The Authority assumed full responsibilities as statutory planning authority for the National Park area from 1 April 2011. While many development control decisions are made by local authorities under delegated powers, the Authority remains responsible for the handling and determination of those planning applications which have greatest strategic significance for the National Park.
- 2.2 It is normal practice for a planning authority to adopt a local protocol setting out the principles that apply in its handling of planning matters. This is to ensure that such matters are handled fairly and consistently, and determined having regard to relevant considerations. Further, publication of the Protocol on the Authority's website promotes transparency in decision making and enables Members, officers, applicants and other stakeholders to understand the principles that apply.
- 2.3 The approved Protocol is attached as **Appendix 1**. This was drafted with regard to similar protocols in place with other local planning authorities, including national park authorities. It deals with a number of potential "problem areas" that can arise in practice, such as:
- Personal and prejudicial interests
 - "Dual-hatted" Members i.e. Members serving more than one authority
 - The "community representative" role of the Member
 - Lobbying
 - Political affinities
 - Pre-application discussions with applicants
 - Site visits
 - Decisions contrary to officer recommendation
- 2.4 The main area of amendment is that paragraphs 4.4 to 4.9 have been updated to reflect clarification of the law on predetermination following implementation of Section 25 of the Localism Act 2011. This states that, when dealing with allegations of bias or predetermination, a decision maker is not to be taken to have had a closed mind just because they have previously done anything that directly or indirectly indicated what view they took, or would or might take, in relation to a matter that was relevant to the decision.
- 2.5 Thus, if a Member has previously expressed a view on an issue, this does not in itself show that that Member has a closed mind on that issue. The fact that a Member might have campaigned on an issue, or made public statements about their approach to it, does not prevent that Member from participating in discussion of the matter when it comes before the Authority, and to vote on a decision regarding it. So long as the Member approaches decision making with an open mind, in the sense such Member has regard to all material considerations, and remains open to the possibility that, however unlikely, he or she will hear arguments during the debate that might change their mind about how they intend to vote, such Member will not be held to have predetermined the issue.
- 2.6 It should be noted that further revision will be necessary once the provisions in the Localism Act regarding conduct of members are brought into force, expected to be in July this year.
- 2.7 Other minor changes have been made to reflect the legal requirement to have regard to national park purposes ("the section 62 duty") (para 1.12) and to remove the suggestion that reports of site visits would be prepared, which has been found to be unnecessary in practice, an oral report of any pertinent issues arising being made to the Planning Committee (para 6.2 removed).

3 Local Protocol for Member and Officer Relations

- 3.1 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.
- 3.2 The approved protocol is attached as **Appendix 2**, and was 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 Officer Code of Conduct

- 4.1 It is common practice for local authorities, including national park authorities, to have a Code of Conduct for Officers. This sets out the standards of conduct that are required of officers when carrying out the work of the authority. Alongside the Members' Code of Conduct, and local protocols such as those governing dealings with planning matters, and Member and officer relations, it promotes transparency, integrity and public confidence in the work of the authority.
- 4.2 The approved Code is attached as **Appendix 3**, and was drafted with regard to similar Codes in place within other local authorities, including national park authorities. In general, these are based on a model code produced several years ago by the Local Government Management Board. In 2008 the Government consulted on a proposed new national code of conduct for local government officers, but this has not progressed any further.
- 4.3 The Code deals with a number of subject areas where guidance to officers should be helpful, such as:
- Disclosure of information
 - Political neutrality
 - Recruitment of other staff
 - Outside commitments
 - Personal financial and non-financial interests
 - Corruption and use of financial resources
 - Receipt of gifts and hospitality

5 Resources

- 5.1 It is intended that the adoption of these various arrangements will in due course reduce the time that would otherwise need to be committed to dealing with complaints or disputes that can arise in the course of the Authority's business. It is important therefore that they are 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.

6 Risk Management

- 6.1 These arrangements 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.

7 Human Rights, Equalities, Health and Safety

- 7.1 The aim of these arrangements is to ensure that members, officers, stakeholders and service users understand their respective responsibilities so that all are treated fairly and consistently in the carrying out of the Authority's business.

8 External Consultees

- 8.1 The independent members of Standards Committee have contributed to the development of these arrangements, and will be involved in the review.

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Appendices	1. Local Protocol for Members and Officers dealing with Planning Matters, 2. Local Protocol for Member and Officer Relations, 3. Officer Code of Conduct,
SDNPA Consultees	Chief Executive Officer, Director of Corporate Services, Director of Planning, Director of Strategy and Partnerships, Head of Operations, Chief Finance Officer, Deputy Chief Finance Officer, Senior Solicitor.