

Agenda Item 6

Report to	Appointment Management and Standards Committee
Date	4 February 2020
By	Monitoring Officer and Head of Governance and Support Services
Title of Report (Decision)	Revised Member Code of Conduct and related matters

Recommendation: The Committee is recommended to request that the Authority

1. Agree the revised Member Code of Conduct set out in Appendix 1 and delegate authority to the Chief Executive to publicise the revised Code in such manner as he considers is likely to bring it to the attention of people who live in the South Downs National Park.
2. Agree the Authority's position and proposed actions in response to the Committee on Standards in Public Life report "Local Government Ethical Standards" as set out at para 3.5
3. Agree the revised Indemnity for Members and Officers, set out in Appendix 3, which has been amended to make express reference to Independent Persons and Co-opted Members.

1. Introduction

- 1.1 The Localism Act 2011 requires that Local Authorities, including National Park Authorities adopt a code of conduct for Members. The code sets out the standards of conduct that are expected of Members when they are acting in their capacity as Members of the National Park Authority. It is incumbent upon the Authority to take the advice of its Monitoring Officer in ensuring this code is up to date and reflects best practice requirements.

2. Policy Context.

- 2.1 The code of conduct is a key part of the Authority's ethical governance framework, and sets the standards expected from Members in their undertaking of National Park Authority duties. It includes provision for the registration and disclosure of pecuniary and other interests, both where this is prescribed by law and where it is considered appropriate for the good governance of the Authority.
- 2.2 The revised code of conduct is attached at Appendix 1. This has been reviewed in light of the Committee on Standards in Public life (CPSL) review and subsequent report (Jan 2019) and the updated Code of Conduct for Board Members of Public Bodies published by the Cabinet Office (June 2019) .

3. Issues for consideration

- 3.1 Key changes for Members to note include:
 - New or more detailed requirements under general obligations including, but not limited to, requirements to act in good faith, behave in accordance with legal obligations, safeguard public funds, deal with the public fairly, exercise proper discretion on matters directly related to the work of the NPA and recognise that certain political activities

may be incompatible with the role of NPA Member and promote an inclusive and diverse culture.

- New requirements relating to gifts and hospitality – removing the monetary value related to reporting, and stressing the personal responsibility related to acceptance of Gifts and Hospitality, as well a requirement to notify the offer, not just receipt of gifts and hospitality
- Reference to social media included under general obligations

3.2 It is proposed that the above changes be made to the code in order to align the Authority's code as far as reasonably practicable with the obligations of the Code of Conduct for Board Members of Public Bodies, which the Secretary of State appointees (including Parish nominated Members) are also required to comply with. There are a few additional obligations placed upon Secretary of State appointees and the Code of Conduct for Board Members of Public Bodies has been sent to those Members to inform them of their obligations under that Code.

3.3 In addition the provisions related to personal interests have been revised in order to incorporate a requirement of the Code of Conduct for Board Members of Public Bodies in relation to personal interests of a financial nature that do not amount to disclosable pecuniary interests. This requires Members to withdraw from the room and not participate in the discussions or decision on an item in which they have such a financial interest.

3.4 Further, although not required, amended wording is proposed to help guide members in identifying conflicts of interest and to clarify that public service interests are a form of personal interest.

3.5 The Authority is also asked to agree the following in relation to the CPSL report. This report contained a number of best practice points, the proposed response to which are set out below:

	Best Practice	The SDNPA Position	Proposed actions
1	Local authorities Should include prohibitions on Bullying and Harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.	There are existing provisions within the Code of Conduct which would encompass bullying and harassment. These provisions require Members to treat others with respect and, specifically, not bully any person. With regard to including a definition of bullying and harassment, it is proposed to await the guidance being formulated by the LGA who are currently developing a model code of conduct which is anticipated to be available late 2020	It is proposed that, once the LGA's updated model code of conduct has been published, a review of the Authority's Member Code of Conduct be carried out and any proposals to make further revisions be considered by this Committee.
2	Councils should include provisions in their code of conduct requiring Councillors to comply with any formal standards investigation, and prohibiting trivial	The Code of Conduct Includes a requirement to behave in accordance with any process arising from any complaints against Members. However there are no references in relation to the prohibition of trivial	It is proposed that, once the LGA's updated model code of conduct has been published, a review of the Member Code of Conduct be carried out and any proposals to

	or malicious allegations by Councillors.	or malicious allegations by Councillor's (Members) and, again, it is proposed to await the LGA guidance on this.	make further revisions be considered by this Committee
3	Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.	<p>The Member Code of Conduct is kept under continuous review by the Monitoring Officer with any changes being proposed as required (e.g. because of legislative change).</p> <p>The CSPL do not explain their reasons for this best practice point. Undertaking a formal annual Review of the Code of Conduct would involve a significant amount of Member and Officer time and none of the Authority's experience to date has indicated a need for this. It is therefore proposed that the SDNPA continues its current practice with regard to reviewing the Code of Conduct.</p>	No action is proposed.
4	An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.	<p>The Member Code of Conduct and Arrangements for handling complaints against Members are included on the Authority's website. This is three clicks away from the homepage.</p> <p>These are also available on request</p>	No action is proposed
5	Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.	<p>The revised Code of Conduct requires Members to notify the Monitoring Officer of any gift or hospitality they are offered and/or received within 28 days. Once the Monitoring Officer has been notified of gifts or hospitality received, the Register is promptly updated.</p> <p>It is proposed that these provisions are sufficient to comply with this best practice point as they allow for the register to be updated more frequently than recommended by the CSPL.</p> <p>The register is currently held in paper format at the SDNPA Offices and is available to members of the public to inspect upon request</p>	Officers will look into how the gifts and hospitality register can be made available on line in an accessible format

6	<p>Councils should publish a clear and straightforward public interest test against which allegations are filtered.</p>	<p>The authority has adopted criteria to assess complaints received – these are set out in appendix 2 of the “Arrangements for Assessment, Investigation and Determination of a Complaint that a Member has failed to Comply with the Members’ Code of Conduct” and address the public interest albeit there is no specific definition of the public interest included.</p> <p>In the absence of a statutory definition of public interest it is considered that the test of public interest within the criteria is already clear and straightforward.</p> <p>It is considered that the provisions within the arrangements are therefore consistent with this best practice point pending any detailed guidance from the LGA or other source.</p>	<p>It is proposed that, once the LGA’s updated model code of conduct has been published, a review of the Authority’s Member Code of Conduct be carried out and any proposals to make further revisions be considered by this Committee.</p>
7	<p>Local authorities should have access to at least two Independent Persons.</p>	<p>The SDNPA has appointed two Independent Persons.</p>	<p>No action proposed.</p>
8	<p>An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.</p>	<p>Our existing processes contain provision for this consultation to take place.</p>	<p>No action proposed.</p>
9	<p>Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice Should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent</p>	<p>SDNPA current procedures allow for a summary of the findings, and reason(s) for them to be published on the Authority’s website in cases where failure to comply with the code has been found. Where no failure has been found such a statement would only be published at the request of the subject member.</p> <p>The procedures does not currently make provision for the views of the Independent Person to published</p>	<p>Further work will be required to amend the Authority’s current practices to reflect this best practice.</p> <p>A recommendation will be made to a future meeting of this Committee and then the NPA in relation to this.</p>

	Person, the reasoning of the decision-maker, and any sanction applied.		
10	A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.	<p>The Authority provides guidance on its website about how complaints may be made against Members and what the arrangements for dealing with those complaints are.</p> <p>There are timescales included in the Arrangements. Complaints are always dealt with as promptly as possible, the speed at which a complaint can be progressed is often dependent on the nature and complexity of the complaint (e.g. whether it involves conduct at non- Authority meetings or involves multiple witnesses).</p>	No action proposed.
11	Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.	not applicable to the SDNPA	none
12	Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.	not applicable to the SDNPA	None
13	A local authority should have procedures in place to address any conflicts of interests when undertaking a standards investigation.	It is reasonably foreseeable that there may be a conflict of interest in respect of Member complaints affecting the Monitoring Officer (e.g. where a Member has acted in	A recommendation will be made to a future meeting of this Committee and then the NPA in relation to

	<p>Possible steps should include asking the Monitoring Officer from a different authority to Undertake the investigation.</p>	<p>accordance with the Monitoring Officer's advice and has subsequently been complained about).</p> <p>Where a conflict, or potential conflict, arises the Monitoring Officer would, in practice, delegate the handling of the complaint to the Deputy Monitoring Officer or instruct another lawyer, however, this is not expressly stated in the Authority's procedures. Officers will consider how the Authority's procedures may be amended to reflect this best practice point in full.</p> <p>Regarding investigations, the Arrangements currently permit the Monitoring Officer to appoint an external investigating officer, it is not therefore considered that any amendment in this regard is necessary.</p>	<p>this.</p>
14	<p>Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.</p>	<p>The Authority has established the South Downs National Park Trust and, jointly with other NPAs, an LLP as independent bodies separate to the Authority. The implications of this best practice recommendation in relation to these bodies will require further consideration.</p>	<p>This best practice requirement will be reviewed as the next AGS is developed in relation to the South Downs National Park Trust and any vehicle established through the Seven Sisters Country Park project.</p>
15	<p>Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.</p>	<p>not applicable to the SDNPA</p>	<p>No action required.</p>

3.6 In addition to the best practice points (above) the CSPL made 26 recommendations directed at the Government, the Local Government Association, political groups, local authorities and Parish Councils. The vast majority of these recommendations require legislative or other change which may take some time to progress. The full list of recommendations is attached at Appendix 2

3.7 Recommendation 11 concerns indemnities being provided by local authorities to Independent Persons if their views or advice are disclosed. If accepted by the

Government, this recommendation could be implemented using secondary legislation. The Authority is asked, in advance of any legislative change to bring Independent Persons and Co-opted Members within the scope of the Authority's Indemnity for Members and Officers by explicitly confirming that Co-opted Members and Independent Persons are included in the definition within paragraph 1 in the Indemnity, as set out in Appendix 3.

- 3.8 Recommendation 23 proposes that the Local Government Transparency Code be updated to ensure the whistleblowing policies of local authorities specify a named contact for the external auditor, together with their contact details, on the Authority's website. This could be implemented at the discretion of the Authority and has therefore been drawn to the attention of the HR team for action.

4. Options & cost implications

- 4.1 The Authority is required to have a code of conduct for its Members, and it is incumbent upon the Authority to take the advice of its Monitoring Officer in ensuring this code is up to date and reflects best practice requirements.
- 4.2 There are no additional costs associated with the revised code of conduct or proposed actions in response to the CPSL best practice.

5. Next steps

- 5.1 If a revised code of conduct is approved by the Authority, it will be circulated to all Members and published on the Authority Website and wider as considered appropriate.
- 5.2 Training on the code of conduct and other standards matters is scheduled for April /May 2020.
- 5.3 Members requiring advice on anything arising from the new code should contact the Monitoring Officer.

6. Other Implications

Implication	Yes*/No
Will further decisions be required by another committee/full authority?	Yes – the final decision on adopting the revised code of conduct will be taken by the Authority
Does the proposal raise any Resource implications?	None directly rising from this report
How does the proposal represent Value for Money?	The code of conduct is key part of the organisation's governance framework, the effective operation of which contributes to the effective running of the organisations
Are there any Social Value implications arising from the proposal?	None directly rising from this report
Have you taken regard of the South Downs National Park Authority's equality duty as contained within the Equality Act 2010?	There are no equalities implications arising from the review of the Member Code of Conduct. The Code applies equally to all Members and the associated processes connected to the code are accessible to all
Are there any Human Rights implications arising from the proposal?	None directly rising from this report
Are there any Crime & Disorder implications arising	None directly rising from this report

from the proposal?	
Are there any Health & Safety implications arising from the proposal?	None directly rising from this report
Are there any Data Protection implications?	None directly rising from this report
Are there any Sustainability implications based on the 5 principles set out in the SDNPA Sustainability Strategy: I.	The report contributes to principle 4 of the sustainability strategy;, Promoting good governance.

7. Risks Associated with the Proposed Decision

- 7.1 Failure to have a robust and up to date code of conduct increases the risk of successful challenge of the Authority's decisions. This report mitigates this risk

Robin Parr
Head of Governance & Support Services
South Downs National Park Authority

Contact Officer: Robin Parr

Tel: 01730 819207

email: Robin.parr@southdowns.gov.uk

Appendices

1. Updated Member Code of Conduct
2. CPSL recommendations
3. Revised SDNPA Staff and Member Indemnity

SDNPA Consultees Chief Executive; Monitoring Officer. SDNPA Independent Persons

External Consultees None

Background Documents CPSL report

Code of Conduct for Board Members of Public Bodies