

Report to	South Downs National Park Authority
Date	26 March 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 Authority is recommended to

- 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.**
- 4. Agree to extend the appointments of the Authority's two Independent Persons, on the current terms, until the 18th December 2021 pursuant to the decision taken by the Authority at its meeting on the 19th December 2017.**

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 have regard to relevant best practice requirements.
- 1.2** Recommendations 1-3 set out above have been recommended by the AMS Committee which considered them at its meeting on 4 February 2020, however the Committee did not consider the issue relating to the extension of the appointments of the Independent Persons.

2. Policy Context.

- 2.1** The Member 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. Although not required by law, the Authority has always applied the Member Code of Conduct to its Co-opted Members.

- 2.2 The proposed revised Member Code of Conduct is attached at Appendix I. 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). Appendix I includes one further substantive change to the member code of conduct which was not considered by the AMS committee. This shown as a tracked change in the appendix

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 policies and comply 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 so that all offers of gifts and hospitality irrespective of value must now be reported, and stressing the personal responsibility related to acceptance of Gifts and Hospitality, as well as imposing a requirement to notify the offer, not just the receipt of gifts and hospitality.
- Reference to social media included in the general obligations.

- 3.2 It is proposed that the above changes be made to the Member Code of Conduct 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 under the Code of Conduct for Board Members of Public Bodies and so this document 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 – based upon the proposed Member Code of Conduct	Proposed actions
I	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	<ul style="list-style-type: none"> • 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 	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 the

	list of examples of the sort of behaviour covered by such a definition.	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	Authority.
2	Councils should include provisions in their code of conduct requiring Councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by Councillors.	<ul style="list-style-type: none"> 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 or malicious allegations by Councillor's (Members) and, again, it is proposed to await the LGA guidance on this. 	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 make further revisions be considered by the Authority.
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.	<ul style="list-style-type: none"> 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). The CSPL do not explain their reasons for this best practice point. Undertaking a formal annual review of the Member 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. This approach has been adopted by a number of other NPAs. 	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.	<ul style="list-style-type: none"> 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. These are also available on request 	No action is proposed
5	Local authorities should update their gifts and hospitality register at least once per	<ul style="list-style-type: none"> The revised Code of Conduct requires Members to notify the Chief Executive of any gift or hospitality they are offered and/or received within 28 days. Once the 	Officers will look into how the gifts and hospitality register can be made available on-line in an accessible format

	quarter, and publish it in an accessible format, such as CSV.	<p>Chief Executive has been notified of any gifts or hospitality accepted, the Register is promptly updated.</p> <ul style="list-style-type: none"> • 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. • The register is currently held in paper format at the SDNPA Offices and is available to members of the public to inspect upon request. 	
6	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	<ul style="list-style-type: none"> • 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. • 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. • 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. 	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 the Authority.
7	Local authorities should have access to at least two Independent Persons.	<ul style="list-style-type: none"> • The SDNPA has appointed two Independent Persons. 	No action proposed.
8	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,	<ul style="list-style-type: none"> • The Authority’s existing processes contain provision for this consultation to take place. 	No action proposed.

	vexatious, or trivial.		
9	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 Person, the reasoning of the decision-maker, and any sanction applied.	<ul style="list-style-type: none"> SDNPA current procedures require 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. The procedures do not currently make provision for the views of the Independent Person to be published 	<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 the Appointments, Management and Standards Committee and then the NPA in relation to this.</p>
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.	<ul style="list-style-type: none"> 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. 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). 	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.	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> Not applicable to the SDNPA 	None

	<p>parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.</p>		
13	<p>A local authority should have procedures in place to address any conflicts of interests when undertaking a standards investigation.</p> <p>Possible steps should include asking the Monitoring Officer from a different authority to Undertake the investigation.</p>	<ul style="list-style-type: none"> • 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 accordance with the Monitoring Officer's advice and has subsequently been complained about). • 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. • 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>A recommendation will be made to a future meeting of the Appointments, Management and Standards Committee and then the NPA in relation to 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>	<ul style="list-style-type: none"> • 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>This best practice requirement will be reviewed as the next Annual Governance Statement is developed.</p>

15	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	<ul style="list-style-type: none"> Not applicable to the SDNPA 	No action required.
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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. Independent Persons

4.1 At its meeting on the 19th December 2017 the Authority appointed two Independent Persons. The appointment of at least one independent person is required under the Localism Act 2011.

4.2 In December 2017, for the first time, the Authority decided that it should appoint two Independent Persons, in each case for an initial term of two years with the option to extend the appointment for an additional two years. The rationale for this decision was:

4.3 Whilst it is permitted for the Independent Person to give his or her views in respect of a complaint to both the Authority and the Member complained about, it is possible for a perception of a conflict of interest, or an actual conflict, to arise. In either case, appointing at least two Independent Persons ensures this risk is mitigated.

4.4 The appointment of two Independent Persons would help to ensure succession planning in the event that one of the Independent Persons was unable to complete a full term.

4.5 Since these appointments were made, there have been no allegations made under the Member Code of Conduct that have required the involvement of the Independent Person. However, in light of the best practice point 7 of the CSPL (above), it is proposed that the current appointments be extended until 18 Dec 2021, at which point both individuals would be eligible for reappointment through whatever process the Authority then implements.

5. Options & cost implications

5.1 The Authority is required to have a code of conduct for its Members, and it is incumbent upon the Authority to have regard to relevant best practice requirements.

5.2 There are no additional costs associated with the revised code of conduct or proposed actions in response to the CPSL best practice.

6. Next steps

6.1 If a revised code of conduct is approved by the Authority, it will be circulated to all Members and published on the Authority's Website and wider as considered appropriate.

6.2 Training on the Member Code of Conduct and other standards matters is scheduled for

April /May 2020, however the timing of this will be dependent upon how matters progress in relation to the handling of the spread of Covid-19.

- 6.3 Members requiring advice on anything arising from the new code should contact the Monitoring Officer.

7. Other Implications

Implication	Yes*/No
Will further decisions be required by another committee/full authority?	No
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 a key part of the organisation's governance framework, the effective operation of which contributes to the effective running of the organisation.
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 from the proposal?	None directly rising from this report
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:	The report contributes to principle 4 of the sustainability strategy:, Promoting good governance.

8. Risks Associated with the Proposed Decision

- 8.1 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.

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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

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South Downs National Park Authority

MEMBER CODE OF CONDUCT

Review Date	Dec 2022
Responsibility	Monitoring Officer
Date Approved	
Approved at	SDNPA Authority meeting
With Effect From	
Amended	11 December 2012
Updated on	XXXXXX xXXXXXX 2020

Member Code of Conduct

This Code is adopted pursuant to the Authority's statutory duty to promote and maintain high standards of conduct by members and co-opted members of the Authority. It applies to all members and co-opted members, when acting in their role as a member or co-opted member of the Authority.

This Code is not intended to be an exhaustive list of all the obligations placed on members and co-opted members of this Authority. It is your responsibility to comply with the following provisions of this Code as well as other legal obligations beyond the scope of this Code.

This Code is based on and consistent with the following principles which, although not forming part of the obligations of the Code, you should have regard to as they will help you to comply with the Code:

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

Part I: General obligations of members and co-opted members

1. You should at all times act in good faith and in the best interests of the Authority. You should deal with the public and their affairs fairly, efficiently, promptly, effectively and sensitively.
2. You should behave in accordance with the Authority's policies, schemes, protocols and procedures including the procedures for handling complaints against Members and any processes arising from any such complaints.
3. You must comply with any statutory or administrative requirements relating to your office.
4. You must treat others with respect.
5. You must uphold the law including by not doing anything which may cause the Authority to breach Equalities Legislation.
6. You should promote an inclusive and diverse culture in the Authority and your actions should help create an environment where different perspectives and backgrounds are encouraged and valued.
7. You must not bully any person.
8. You must not intimidate, or try to intimidate, anyone who has complained about you or who may be involved with a complaint about you.
9. You will treat all officers employed by the Authority with courtesy and respect and not ask or encourage officers to act in a way that would conflict with the Officer Code of Conduct. You must not do anything which compromises the impartiality of the Authority's Officers.
10. You must not misuse information gained in the course of performing your role as a Member of the Authority for personal gain or political purposes
11. You must not disclose confidential information or information provided in confidence except in limited circumstances permitted by law and any such disclosure should only take place following consultation with the Authority's Monitoring Officer.
12. You must not prevent a person from gaining access to information to which they are entitled.
13. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or Authority into disrepute.
14. Where any personal social media accounts used by you make reference or link to your public role, you should take care to ensure that it is clear in what capacity you are acting.
15. You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person an advantage or disadvantage.
16. You must, when using or authorising the use by others of the resources of the Authority, act in accordance with the Authority's reasonable requirements. You must ensure that the Authority's resources and public funds are safeguarded and are not misused including for personal gain or for political purposes.
17. You must have regard to the Code of Recommended Practice on Local Authority Publicity.

18. When reaching decisions, you must have regard to relevant advice from the Authority's Officers, give reasons for decisions and ensure that the Authority uses its resources efficiently, economically and effectively
19. You must exercise independent judgement and not compromise your position by placing yourself under obligations to outside individuals or organisations who might seek to influence the way you perform your duties.
20. You must exercise proper discretion on matters directly related to the work of the Authority and recognise that certain political activities may be incompatible with your role as an Authority Member. In your role as an Authority Member you should be even handed in all dealings with political parties.
21. You should promote an open, transparent and safe working environment within the Authority where individuals feel able to speak up and raise concerns, and complaints procedures are clearly communicated.

Part 2: Registration and Disclosure of Interests

22. You must, within 28 calendar days of becoming a member or co-opted member, notify the Authority's Monitoring Officer of any **disclosable pecuniary interest** as set out in Part 3 of the Code, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of a person with whom you are living as if you are a married couple or civil partners, and where you are aware that that other person has that interest.
23. Where a **disclosable pecuniary interest** has not been entered in the Register of Interests, and it is a disclosable pecuniary interest in any matter being considered at a meeting of the Authority, committee or sub-committee at which you are present, you must disclose the interest to the meeting, except where the matter is a 'sensitive interest'.¹ Where the interest is a 'sensitive interest', you must disclose merely *the fact that you have a disclosable pecuniary interest in the matter concerned*.
24. Where you have a **disclosable pecuniary interest** in any matter being considered at a meeting of the Authority, committee or sub-committee, you must not participate in discussion of, or vote on, that matter, and must withdraw from the room where the meeting is being held, unless you have obtained a dispensation from the Appointments, Management and Standards Committee. However, this does not prevent you from making representations on the matter to the meeting, in accordance with the Authority's public speaking procedures, provided that you withdraw from the room when those representations are concluded and before any discussion or vote takes place.
25. Following any disclosure of a **disclosable pecuniary interest** not on the Authority's Register of Interests maintained by the Authority's Monitoring Officer, nor the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
26. You must never seek or canvass **gifts or hospitality**. You are required, within 28 days to notify the Chief Executive or his delegate in writing of any offer and/or receipt of any gifts or hospitality. Where the offer of a gift or hospitality is accepted this will be recorded on the Authority's appropriate register. You are responsible for your decisions on the acceptance of gifts or hospitality and for ensuring that any gifts or hospitality accepted can stand up to public scrutiny and do not bring your office or the Authority into disrepute for example,

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

where a gift or hospitality might reasonably appear to compromise your personal judgement or integrity or place you under an improper obligation.

27. Without prejudice to the requirements set out above, you must, in addition notify the Authority's Monitoring Officer of any **personal interest**, you consider it appropriate to be entered on the Register of Interests. You have a personal interest in any business of the Authority where a decision in relation to it might reasonably be regarded as affecting the **well-being or financial position of yourself, a member of your family or person with whom you have a close association, to a greater extent than the majority of inhabitants of the South Downs National Park**. You must disclose a personal interest at a meeting of the Authority, committee or sub-committee, where you consider that interest to be relevant to an item of business being considered at that meeting. The disclosure shall be made at the commencement of the meeting or when the interest becomes apparent and shall be recorded in the minutes of the meeting.
28. Disclosure of a **personal interest** does not necessarily affect your ability to participate in discussion or vote on the relevant item. This will depend upon your individual circumstances. If the personal interest amounts to a disclosable pecuniary interest, the provisions above apply. If the personal interest is financial in nature, but does not amount to a disclosable pecuniary interest, you should not participate in the business being considered, you should leave the room after exercising any right to speak which a member of the public would have (should you wish to do so). In respect of all other personal interests, you will need to consider whether the nature of the interest is such that it may, or may be perceived to, conflict with your public duties (with regard to the latter you should ask yourself whether a member of the public, acting reasonably, would consider that the interest might influence your judgement of the public interest). If you consider, having taken advice in appropriate circumstances, that you should not participate in the business being considered, you should leave the room after exercising any right to speak which a member of the public would have (should you wish to do so).
29. You are required to disclose a "**public service interest**" at a meeting of the Authority, committee or sub-committee where you consider that interest to be relevant to an item of business being considered at that meeting. The disclosure shall be made at the commencement of the meeting, or when the interest becomes apparent, and shall be recorded in the minutes of the meeting. A "Public service interest" is a form of **personal interest** involving membership of any of the following: a public or charitable body, a body to which you have been appointed by the Authority, any political party, trade union or other body one of whose principal purposes is to influence public opinion or policy. Disclosure of a public service interest does not normally affect your ability to participate in discussion or vote on the relevant item, but this will depend on the individual circumstances and advice should be sought where the nature of the interest is such that it could amount to a disclosable pecuniary interest or a personal interest that is financial in nature or may, or may be perceived to, conflict with your public duties.

Part 3: Disclosable Pecuniary Interests

- I. The terms below have the meanings given—

"the Act" means the Localism Act 2011;

"body in which the relevant person has a beneficial interest" means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of [a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014, other than a society registered as a credit union];

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of the Authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

2. The pecuniary interests which are specified for the purposes of Chapter 7 of Part I of the Act are the interests specified in the second column of the Schedule below:

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M’s knowledge)— (a) the landlord is the relevant authority; and

(b) the tenant is a body in which the relevant person has a beneficial interest.

Securities

Any beneficial interest in securities of a body where—

(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and

(b) either—

(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Adopted by the South Downs National Park Authority

Date: 24 March 2016

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Executive summary

Local government impacts the lives of citizens every day. Local authorities are responsible for a wide range of important services: social care, education, housing, planning and waste collection, as well as services such as licensing, registering births, marriages and deaths, and pest control. Their proximity to local people means that their decisions can directly affect citizens' quality of life.

High standards of conduct in local government are therefore needed to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.

Our evidence supports the view that the vast majority of councillors and officers maintain high standards of conduct. There is, however, clear evidence of misconduct by some councillors. The majority of these cases relate to bullying or harassment, or other disruptive behaviour. There is also evidence of persistent or repeated misconduct by a minority of councillors.

We are also concerned about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decision-making.

Giving local authorities responsibility for ethical standards has a number of benefits. It allows for flexibility and the discretion to resolve standards issues informally. We have considered whether there is a need for a centralised body to govern and adjudicate on standards. We have concluded that whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local

authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.

We have made a number of recommendations and identified best practice to improve ethical standards in local government. Our recommendations are made to government and to specific groups of public office-holders. We recommend a number of changes to primary legislation, which would be subject to Parliamentary timetabling; but also to secondary legislation and the Local Government Transparency Code, which we expect could be implemented more swiftly. Our best practice recommendations for local authorities should be considered a benchmark of good ethical practice, which we expect that all local authorities can and should implement. We will review the implementation of our best practice in 2020.

Codes of conduct

Local authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. There is considerable variation in the length, quality and clarity of codes of conduct. This creates confusion among members of the public, and among councillors who represent more than one tier of local government. Many codes of conduct fail to address adequately important areas of behaviour such as social media use and bullying and harassment. An updated model code of conduct should therefore be available to local authorities in order to enhance the consistency and quality of local authority codes.



There are, however, benefits to local authorities being able to amend and have ownership of their own codes of conduct. The updated model code should therefore be voluntary and able to be adapted by local authorities. The scope of the code of conduct should also be widened, with a rebuttable presumption that a councillor's public behaviour, including comments made on publicly accessible social media, is in their official capacity.

Declaring and managing interests

The current arrangements for declaring and managing interests are unclear, too narrow and do not meet the expectations of councillors or the public. The current requirements for registering interests should be updated to include categories of non-pecuniary interests. The current rules on declaring and managing interests should be repealed and replaced with an objective test, in line with the devolved standards bodies in Scotland, Wales and Northern Ireland.

Investigations and safeguards

Monitoring Officers have responsibility for filtering complaints and undertaking investigations into alleged breaches of the code of conduct. A local authority should maintain a standards committee. This committee may advise on standards issues, decide on alleged breaches and sanctions, or a combination of these. Independent members of decision-making standards committees should be able to vote.

Any standards process needs to have safeguards in place to ensure that decisions are made fairly and impartially, and that councillors are protected against politically-motivated, malicious, or unfounded allegations of misconduct. The Independent Person is an important safeguard in the current system. This safeguard should be strengthened and clarified: a local authority should only be able to suspend a councillor where the Independent

Person agrees both that there has been a breach and that suspension is a proportionate sanction. Independent Persons should have fixed terms and legal protections. The view of the Independent Person in relation to a decision on which they are consulted should be published in any formal decision notice.

Sanctions

The current sanctions available to local authorities are insufficient. Party discipline, whilst it has an important role to play in maintaining high standards, lacks the necessary independence and transparency to play the central role in a standards system. The current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.

Local authorities should therefore be given the power to suspend councillors without allowances for up to six months. Councillors, including parish councillors, who are suspended should be given the right to appeal to the Local Government Ombudsman, who should be given the power to investigate allegations of code breaches on appeal. The decision of the Ombudsman should be binding.

The current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice, and should be abolished.



Town and parish councils

Principal authorities have responsibility for undertaking formal investigations of code breaches by parish councillors. This should remain the case. This responsibility, however, can be a disproportionate burden for principal authorities. Parish councils should be required to adopt the code of their principal authority (or the new model code), and a principal authority's decision on sanctions for a parish councillor should be binding. Monitoring Officers should be provided with adequate training, corporate support and resources to undertake their role in providing support on standards issues to parish councils, including in undertaking investigations and recommending sanctions. Clerks should also hold an appropriate qualification to support them to uphold governance within their parish council.

Supporting officers

The Monitoring Officer is the lynchpin of the current standards arrangements. The role is challenging and broad, with a number of practical tensions and the potential for conflicts of interest. Local authorities should put in place arrangements to manage any potential conflicts. We have concluded, however, that the role is not unique in its tensions and can be made coherent and manageable with the support of other statutory officers. Employment protections for statutory officers should be extended, and statutory officers should be supported through training on local authority governance.

Councils' corporate arrangements

At a time of rapid change in local government, decision-making in local councils is getting more complex, with increased commercial activity and partnership working. This complexity risks putting governance under strain. Local authorities setting up separate bodies risk a governance 'illusion', and should

take steps to prevent and manage potential conflicts of interest, particularly if councillors sit on these bodies. They should also ensure that these bodies are transparent and accountable to the council and to the public.

Our analysis of a number of high-profile cases of corporate failure in local government shows that standards risks, where they are not addressed, can become risks of corporate failure. This underlines the importance of establishing and maintaining an ethical culture.

Leadership and culture

An ethical culture requires leadership. Given the multi-faceted nature of local government, leadership is needed from a range of individuals and groups: an authority's standards committee, the Chief Executive, political group leaders, and the chair of the council.

Political groups have an important role to play in maintaining an ethical culture. They should be seen as a semi-formal institution sitting between direct advice from officers and formal processes by the council, rather than a parallel system to the local authority's standards processes. Political groups should set clear expectations of behaviour by their members, and senior officers should maintain effective relationships with political groups, working with them informally to resolve standards issues where appropriate.

The aim of a standards system is ultimately to maintain an ethical culture and ethical practice. An ethical culture starts with tone. Whilst there will always be robust disagreement in a political arena, the tone of engagement should be civil and constructive. Expected standards of behaviour should be embedded through effective induction and ongoing training. Political groups should require their members to attend code of conduct training provided by a local authority, and this should also be



written into national party model group rules. Maintaining an ethical culture day-to-day relies on an impartial, objective Monitoring Officer who has the confidence of all councillors and who is professionally supported by the Chief Executive.

An ethical culture will be an open culture. Local authorities should welcome and foster opportunities for scrutiny, and see it as a way to improve decision making. They should not rely unduly on commercial confidentiality provisions, or circumvent open decision-making processes. Whilst local press can play an important role in scrutinising local government, openness must be facilitated by authorities' own processes and practices.



List of recommendations

Number	Recommendation	Responsible body
1	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	Local Government Association
2	The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.	Government
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.	Government
4	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.	Government
5	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	Government
6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.	Government



Number	Recommendation	Responsible body
7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, “if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter”.	Government
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government
9	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	Government
10	A local authority should only be able to suspend a councillor where the authority’s Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government
11	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	Government / all local authorities
12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.	Government
13	Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.	Government



Number	Recommendation	Responsible body
14	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	Government
15	The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government
16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government
17	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government
18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government
19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish councils
20	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	Government
21	Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	Government
22	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	Government



Number	Recommendation	Responsible body
23	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.	Government
24	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government
25	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political groups National political parties
26	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association



List of best practice

Our best practice recommendations are directed to local authorities, and we expect that any local authority can and should implement them. We intend to review the implementation of our best practice in 2020.

Best practice 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.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Best practice 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.

Best practice 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.

Best practice 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.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: 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.



Best practice 9: 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 Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 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.

Best practice 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.

Best practice 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.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: 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.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

**Agenda Item 6
Appendix 3**



SOUTH DOWNS NATIONAL PARK AUTHORITY

REVISED INDEMNITY FOR MEMBERS AND

OFFICERS TERMS OF INDEMNITY

1. The Authority will, subject to the exceptions in paragraphs 1.1-1.3, indemnify each of its Members, **including Co-opted Members**, and employees (which term **for the purposes of this Indemnity** shall include any **Independent Persons appointed by the Authority under s28 (7) of the Localism Act 2011, or replacement legislation**, and volunteers undertaking authorised tasks) against any loss or damage suffered by the Member or employee arising from his/her action or failure to act in his/her capacity as a Member or employee of the Authority. This indemnity will not extend to loss or damage directly or indirectly caused by or arising from:
 - 1.1 any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the Member or employee;
 - 1.2 any act or failure to act by the Member or employee otherwise than in his/her capacity as a member or employee of the Authority; or
 - 1.3 failure by the Member to comply with the Authority's Code of Conduct for Members.
2. The Authority will, subject to paragraphs 2.1 – 2.6 indemnify each of its Members and employees against the reasonable costs which he/she may incur in securing appropriate legal advice and representation in respect of any civil or criminal proceedings or Part 3 proceedings to which he/she is subject.
 - 2.1 "Criminal proceedings" includes any interview or investigation by the Police, and any proceedings before a criminal court, in the United Kingdom.
 - 2.2 "Part 3 proceedings" means any investigation or hearing in respect of an alleged failure to comply with the Authority's Code of Conduct for Members under Part 3 of the Local Government Act 2000.
 - 2.3 Subject to the agreement of the Monitoring Officer in any case and to any conditions he or she may impose, this indemnity shall extend to any advice or representation in respect of any claim or threatened claim in defamation against the member or employee.
 - 2.4 Where any Member or employee avails him/herself of this indemnity in respect of defending him/herself against any criminal proceedings or Part 3 proceedings, the indemnity is subject to a condition that if, in respect of the matter in relation to which the member or employee has made use of this indemnity:
 - 2.4.1 the Member or employee is convicted of a criminal offence in consequence of such proceedings, or
 - 2.4.2 a Standards Committee or the First Tier Tribunal determines that the Member has failed to comply with the Code of Conduct for Members and the conviction or determination is not overturned on appeal,

the Member or employee as the case may be, shall reimburse the Authority for any sums expended by the Authority pursuant to the indemnity.

- 2.5 Where the Authority arranges insurance to cover its liability under this indemnity, the requirement to reimburse in Paragraph 2.4 shall apply as if references to the Authority were references to the insurer.

3. For the purposes of this indemnity, a loss or damage shall be deemed to have arisen to the Member or employee "in his/her capacity as a member or employee of the Authority" where:
 - 3.1 The act or failure to act was outside the powers of the Authority, or outside the powers of the Member or employee, but the Member or employee reasonably believed that the act or failure to act was within the powers of the Authority or within the powers of the Member or employee (as appropriate) at the time that he/she acted or failed to act, as the case may be; or
 - 3.2 The act or failure to act occurred not in the discharge of the functions of the Member or employee as a Member or employee of the Authority but in their capacity as a Member or employee or representative of another organisation, where the Member or employee is, at the time of the action or failure to act, a Member or employee or representative of that organisation in consequence of his/her appointment as such Member or employee or representative of that organisation by the Authority.
4. The Authority undertakes not to sue (or join in action as co-defendant) a Member or employee of the Authority in respect of any negligent act or failure to act by the Member or employee in his/her capacity as a Member or employee of the Authority, subject to the following exceptions:
 - 4.1 Any criminal offence, fraud or other deliberate wrongdoing or recklessness on the part of the member or employee; or
 - 4.2 Any act or failure to act by the Member or employee otherwise than in his/her capacity as a Member or employee of the Authority.
5. This indemnity and undertaking will not apply if a Member or employee, without the express permission of the Monitoring Officer, admits liability or negotiates or attempts to negotiate a settlement of any claim, that would otherwise fall within the scope of the indemnity.
6. This indemnity and undertaking are without prejudice to the rights of the Authority to take disciplinary action against an employee in respect of any act or failure to act.
7. This indemnity and undertaking shall apply retrospectively to any act or failure to act which may have occurred before this date and shall continue to apply after the Member or employee has ceased to be a Member or employee of the Authority as well as during his/her membership of or employment by the Authority.

Adopted by South Downs National Park Authority

Date February 2011

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