



South Downs

National Park Authority

Agenda Item 13
Report NPA20/21-13

Report to	South Downs National Park Authority
Date	15 October 2020
By	Monitoring Officer and Head of Governance and Support Services
Title of Report Decision	Revised Members' Code of Conduct and related matters

Recommendation: The Authority is recommended to

- 1. Agree the revised Members' 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 paragraph 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, set out in section 4, on the current terms until 18th December 2021 pursuant to the decision taken by the Authority at its meeting on 19th December 2017.**
- 5. Agree the revised Local Protocol for Member and Officer Relations set out in Appendix 4.**
- 6. Delegate authority to the Monitoring Officer to update and republish the Local Protocol for Members and Officers Dealing with Planning Matters to reflect relevant changes agreed to the Members' Code of Conduct and the Local Protocol for Member and Officer Relations.**
- 7. Agree the role descriptions for Members, Authority Chair and Deputy Chair set out in Appendix 5.**

I. Introduction

- I.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.
- I.2** Recommendations 1- 5 set out above have been recommended by the AMS Committee which considered them at its meetings in February and September 2020.

- 1.3 Members may be aware from the recent public consultation that the Local Government Association is currently developing a new model members' code of conduct. It will not be obligatory for the Authority to adopt this model code but due regard will need to be had to it. The changes proposed to the SDNPA Code of Conduct reflect many of the significant points explored in the LGA consultation. Once the LGA model code is published, the SDNPA Code of Conduct will be further reviewed to ensure it continues to reflect best practice.

2. Policy Context.

- 2.1 The Members' 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 Members' Code of Conduct to its Co-opted Members.
- 2.2 The proposed revised Members' 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 Members' Code of Conduct which was not considered by the AMS Committee. This is 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 Members' 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 (which mainly involve obligations to notify Defra and the NPA Chair of certain matters including certain political activity) and so this document has been sent to those Members to inform them of their obligations under that code.
- 3.3 In addition, it is proposed that the provisions relating to personal interests be revised in order to incorporate a requirement of the Code of Conduct for Board Members of Public Bodies concerning 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 any form of financial interest. This change could increase the number of occasions where Members are prevented from participating in discussions and votes on items, however the Secretary of State appointed Members are already prevented from doing so and the change is being proposed to promote clarity and consistency amongst Members.

- 3.4 Further, 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
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.	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.
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.	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.	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	No action is proposed.

	Best Practice	The SDNPA Position – based upon the proposed Member Code of Conduct	Proposed actions
		adopted by a number of other NPAs.	
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 Chief Executive of any gift or hospitality they are offered and/or received within 28 days. Once the Chief Executive has been notified of any gifts or hospitality accepted, 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	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	<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</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 the Authority.

	Best Practice	The SDNPA Position – based upon the proposed Member Code of Conduct	Proposed actions
		practice point pending any detailed guidance from the LGA or other source.	
7	Local authorities should have access to at least two Independent Persons.	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, vexatious, or trivial.	The Authority's existing processes contain provision for this consultation to take place.	No action proposed.
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.	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	Further work will be required to amend the Authority's current practices to reflect this best practice. A recommendation will be made to a future meeting of the Appointments, Management and Standards Committee and then the NPA in relation to this.
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.	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	No action proposed.

	Best Practice	The SDNPA Position – based upon the proposed Member Code of Conduct	Proposed actions
		conduct at non- Authority meetings or involves multiple witnesses).	
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	Not applicable
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	Not applicable
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>	<p>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).</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</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.

	Best Practice	The SDNPA Position – based upon the proposed Member Code of Conduct	Proposed actions
		not therefore considered that any amendment in this regard is necessary.	
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.	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.	This best practice requirement will be reviewed as the next Annual Governance Statement is developed.
15	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	Not applicable to the SDNPA	Not applicable.

- 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 The Authority is required by the Localism Act 2011 to appoint at least one independent person whose views must be taken into account by the Authority following an investigation into an allegation that a Member has breached the Members' Code of Conduct. This is different to the existing independent co-opted members on the Policy and Resources Committee, who support the Authority's audit and governance processes.

- 4.2 In December 2017, following an open recruitment process, the Authority decided for the first time to 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:
- 4.2.1 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; and,
- 4.2.2 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.
- 4.3 The Authority's current Independent Persons are Steve Cooper and John Donaldson.
- 4.4 Since these appointments were made, there have been no allegations made under the Members' Code of Conduct that have required the involvement of the Independent Person. However, in January 2019, the Committee on Standards in Public Life (CSPL) issued a report entitled "Local Government Ethical Standards" following a review conducted by the CSPL. In its report, the CSPL concluded that it is best practice for local authorities to have access to at least two Independent Persons.
- 4.5 In the light of the CSPL best practice finding, it is proposed that the appointments of the Authority's two Independent Persons be extended on the current terms until 18 Dec 2021, at which point both individuals would be eligible for reappointment through whatever process the Authority then implements. Both of the Independent Persons have confirmed their willingness for their appointments to be extended.

5. **Revision to the Local Protocol for Member and Officer Relations**

- 5.1 In addition to the review of the Members' Code of Conduct, the Local Protocol for Member and Officer Relations has been reviewed, in part to reflect changes proposed in the Code of Conduct. This protocol communicates the standards expected of Officers and Members in undertaking their duties. The revised Protocol is set out in Appendix 4.
- 5.2 The following changes are proposed to the Protocol:

Ref	Change	Justification
Throughout	General updates	To reflect requirements and language of other governance documents and legislation
2.2	Updated to reflect Officer Code of Conduct	To reflect best practice and promote consistency
2.3	Updated to reflect proposed revised Members' Code of Conduct	To reflect best practice and promote consistency
2.7	Insert wording to clarify that a Member may seek advice from the Chair of the Authority before taking action	To reflect best practice
6.4	Remove reference to dispute resolution	To ensure compliance with the Committee's Terms of Reference
New section 13	Inclusion of new social media section	To reflect requirements of the social media policy

15.1	Inclusion of additional wording related to member/officer meetings.	To reflect best practice
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5.3 These changes have been reviewed and are recommended by the AMS Committee.

5.4 To ensure consistency across the Authority's ethical framework documentation the Local Protocol for Members and Officers Dealing with Planning Matters will require updating to reflect relevant changes agreed to the Members' Code of Conduct and the Local Protocol for Member and Officer Relations. As these changes are consequential, the Authority is asked to delegate authority to the Monitoring Officer to undertake these updates and republish this document alongside the revised Members' Code of Conduct and Local Protocol for Member and Officer Relations.

6. Role descriptions

6.1 Role descriptions for Members were agreed by the Authority in 2014. These have recently been reviewed and only minor changes are proposed to reflect updated language and Authority practice. Role descriptions are useful to help Members and prospective Members to understand the role and support and this, in turn, aids recruitment of Members when vacancies arise on the Authority.

6.2 In addition, new role descriptions for Chair and Deputy Chair of the Authority have been drafted in consultation with the Chair and Deputy Chair of the Authority.

6.3 The proposed role descriptions are set out at Appendix 5.

7. Options & cost implications

7.1 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.

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

8. Next steps

8.1 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.

8.2 Training on the Member Code of Conduct and other standards matters was scheduled for April /May 2020, however the timing of this will now be dependent upon how matters progress in relation to the ongoing Covid-19 pandemic.

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

9. 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 Members' 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 Members' 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.

10. Risks Associated with the Proposed Decision

- 10.1 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. Revised Members' Code of Conduct
2. CPSL recommendations
3. Revised SDNPA Staff and Member Indemnity
4. Revised Local Protocol for Member and Officer Relations
5. Revised Member role descriptions

SDNPA Consultees

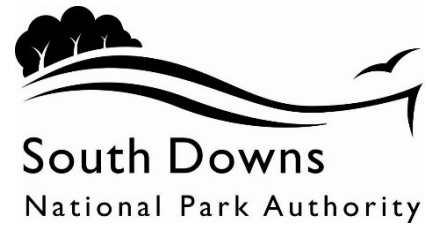
Chief Executive; Monitoring Officer.

External Consultees

None

Background Documents

CPSL report
Code of Conduct for Board Members of Public Bodies



South Downs National Park Authority

MEMBER CODE OF CONDUCT

Review Date	Dec 2022
Responsibility	Monitoring Officer
Date Approved	March 2016
Approved at	SDNPA Authority meeting
Updated on	15 October 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 1: 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



List of recommendations

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.



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,
 - 2.4.3 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



South Downs National Park Authority

LOCAL PROTOCOL FOR MEMBER AND OFFICER RELATIONS

Review Date	October 2022
Responsibility	Monitoring Officer
Date Approved	March 2011
Approved at	Standards & Audit Committee meeting
With Effect From	1 January 2014
Amended on	15 October 2020

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I. INTRODUCTION

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

2. EXPECTATIONS

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

Expectations of Officers

- 2.2 Members can expect from officers:
 - a commitment to the Authority as a whole, corporate body rather than merely any one part of it
 - respect and courtesy
 - Responsibility for their own actions;
 - the highest standards of integrity as well as a recognition and understanding of the Authority's Values and ethical standards
 - a working partnership
 - an understanding of and support for respective roles, workloads and pressures
 - timely responses to enquiries and complaints
 - professional advice, not influenced by political views, preference or personal interests
 - regular up to date information that can be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions they hold
 - awareness of and sensitivity to the political environment
 - training and development in order to help Members carry out their role effectively
 - appropriate confidentiality
 - that they will not use their relationship with Members to seek to advance their personal interests or to influence decisions improperly
 - support for the role of Members within the arrangements made by Authority
 - compliance with the Authority's ethical governance framework at all times.
 - Compliance with policies relating to equality issues as agreed by the Authority, and with the law.

Expectations of Members

- 2.3 Officers can expect from Members:
 - respect and courtesy
 - the highest standards of integrity
 - to be accountable for their decisions
 - a working partnership with Members having regard to the advice given by officers
 - an understanding of and support for respective roles, workloads and pressures

- leadership
- not to be subject to bullying, or discrimination or to be put under undue pressure
- that Members will not use their position or relationship with officers to seek to influence decisions improperly
- compliance with the Members' Code of Conduct and protocols at all times.
- Compliance with policies relating to equality issues as agreed by the Authority and with the requirements of the law, as well as the promotion of an inclusive and diverse culture in the Authority and the creation of an environment where different perspectives and backgrounds are encouraged and valued.
- The promotion of 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.

Working Relationships

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

3. ROLE OF MEMBERS

- 3.1 The role of the Member is detailed in the Member Role Description approved by the Authority. In summary, the role of Members is to:
- represent the national interest
 - represent the National Park Authority
 - represent and support communities

- make decisions and oversee National Park Authority performance:
- achieve internal governance, adhere to ethical standards, support, and adhere to, respectful, appropriate and effective relationships with Members and officers
- be responsible for both personal and role development.

3.2 The role of a Committee Chair is legally recognised for procedural purposes such as chairing meetings and exercising a casting vote. In practice, Chairs are recognised as the 'lead members' on the areas and issues within the terms of reference of the Committee concerned. This involves working closely with officers and acting as the Authority's external 'spokesperson' on those issues.

3.3 Where it is considered appropriate, Lead Members may be appointed by the NPA, with the role of working with officers in driving forward new areas of work or where a transformation or stepped change is required in strategies or services. Lead Members need to ensure that in exercising their role that this does not conflict or become confused with the role of the relevant Committee Chair.

4. RESPONSIBILITIES OF MEMBERS

4.1 All Members appointed to the Authority have equal status, equal opportunity to hold office and are equally responsible. Members are expected to be equally committed to fulfilling the purposes for which National Parks exist and accept their appointment to the Authority with that commitment in mind.

4.2 Members of a National Park Authority, in their individual capacity, have no executive powers and can exercise no lawful authority to make decisions.

4.3 Members should be able to leave the day-to-day implementation of policies, including management to officers. Members have a right to ensure that their decisions for which they are statutorily responsible and accountable are implemented by officers. Officers should demonstrate that they are sensitive to Members' aspirations underlying those policies.

5. RIGHTS AND DUTIES OF MEMBERS

5.1 There are other clear rights for individual Members, principally:

- rights of access to Authority and Committee papers
- rights to attend certain meetings
- rights to see the accounts and make copies, and before the annual audit to inspect specific books, contracts, bills etc
- rights to receive approved allowances.

5.2 There are also duties on individual Members, principally:

- to be committed to working with other Members and officers in the best interests of the National Park and the Authority itself
- to champion and represent the Authority as an effective mechanism for achieving the National Park Purposes
- to be an advocate for the special qualities of the National Park
- to promote the family of National Parks and its wider partners
- to engage with, and listen to, communities and stakeholders of the National Park in the furtherance of the purposes and duty
- to prepare for, attend and contribute to meetings of the Authority, its Committees and working/task groups
- to comply with Standing Orders and respect the democratically determined decisions of the Authority as well as to accept collective responsibility for such decisions and the impact on Authority resources

- to abide by the Authority's Members' Code of Conduct and adopted protocols
- to register their disclosable pecuniary and other interests and the receipt of gifts or hospitality in line with the requirements of the Members' Code of Conduct.
- to disclose disclosable pecuniary interests, and public service interests and other personal interests in any matter at or before meetings of the Authority, and its Committees
- to attend and participate in opportunities for training and development
- to take carefully into account advice provided by the Chief Executive or officers of the Authority
- to engage in and demonstrate the Authority's commitment to equality and diversity.

6. INSPECTION OF DOCUMENTS

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

7. CONFIDENTIALITY OF REPORTS

- 7.1 Senior officers who author reports to the Authority and its Committees have a duty to satisfy themselves that their reports are only classified as 'exempt information' or 'confidential information' when the relevant statutory criteria for this are met as set out in the Local Government Act 1972. The Chief Executive, as proper officer for this function, has an overriding responsibility to determine this compliance.
- 7.2 Once a report has been issued with Part II of the agenda for a meeting a Member must respect the confidentiality of the report and (subject to Paragraph 8.4 below) not disclose its contents to a third party. However, this restriction does not apply if the Committee decides at the meeting that the report should be discussed in the presence of the press and public.

- 7.3 It does not however follow that all the contents of the report must be regarded as confidential. It may only be certain items of information or terms of negotiations that justify the inclusion of that report in Part II. Other aspects may be within the public domain or otherwise outside the definition of 'exempt'. A Member may accordingly refer to these aspects in discussions with third parties but must exercise proper care and judgement not to reveal those elements of the paper which are protected but it will also be prudent for that Member to consult with the Monitoring Officer before doing so.
- 7.4 Members may also come into contact with confidential information that is not contained in formal reports to the Authority or its committees. The Members' Code of Conduct provides that Members 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. It should be appreciated that it is only in limited circumstances that the conditions justifying disclosure will be met and that, if the necessary conditions are not met, Members are at risk of breaching the Code of Conduct and of compromising the position of the Authority. The guiding principle remains, therefore, that information which is received as confidential should, in general, remain confidential.

8. ROLES AND RESPONSIBILITIES OF OFFICERS

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

9. ROLES OF SPECIFIC OFFICERS

- 9.1 There are four officer posts that have specific roles defined by statute:
- i) Head of Paid Service: is under a duty, 'where he or she considers it appropriate' to report to the Authority and Members on:
- the manner in which the discharge by the Authority of its different functions is co-ordinated
 - the number and grades of staff required by the Authority for the discharge of its functions
 - the organisation of the Authority's staff; and
 - the appointment and proper management of the Authority's staff.

- ii) National Park Officer is the officer appointed by the Authority to be responsible to the Authority for the manner in which the carrying out of its statutory functions is co-ordinated. For the SNDPA this is the Chief Executive.
- iii) Chief Finance Officer: (designated under s.151 of the Local Government Act 1972) is responsible for the proper administration of the Authority's financial affairs. He or she is under a duty to report, to both Members of the Authority and to the District Auditor, any decision involving unlawful, (or potentially unlawful), expenditure by the Authority; any unlawful course of action likely to cause a loss or deficiency on the part of the Authority; or an unlawful entry of an item of account. The post-holder is appointed by the NPA.
- iv) Monitoring Officer: (designated under s.5 of the Local Government and Housing Act 1989) has a duty to put a formal report to the Authority where it appears that the Authority, its Committees or officers are involved in any proposal, decision or omission which is, or is likely to be, illegal or give rise to maladministration or specified failure. The Monitoring Officer also has specific legal duties and powers in respect of the registration of Members' interests. The post-holder is appointed by the NPA.

10. RELATIONSHIPS BETWEEN CHAIRS AND SENIOR OFFICERS

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

11. URGENT BUSINESS

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

12. RELATIONS WITH THE PRESS AND MEDIA

- 12.1 Relations with the press and media need to be handled with care to ensure the Authority's position on any issue is represented properly. Day to day contact with the press and media will normally be handled by the Chief Executive. Where necessary they will consult with the Authority Chair and/or other Members. Where a media interview is needed on major, or Member, issues, the Chief Executive and the Chair will discuss who is to be the appropriate spokesperson. On occasions other Members may be asked to assume this role and similarly the Chief Executive may nominate one of his staff to speak on his/ her behalf.

- 12.2 On occasions other Members may be approached directly by the press and media and asked to make a comment or to appear for interview. In these circumstances Members are asked, where practicable, to discuss this first with the Chief Executive.
- 12.3 When Members have been authorised to speak on behalf of the Authority any contacts should be notified to the Chief Executive as soon as possible. They should make it clear that any 'personal' views they express are not necessarily those of the Authority. In all cases Members are asked to uphold the good name and integrity of the Authority.

13. Social media

- 13.1 Social networking sites allow photographs, videos and comments to be shared with thousands of other users. However, it may not be appropriate to share work-related information in this way. For example, there may be an expectation that photographs taken at a private SDNPA event will not appear publicly on the Internet, both from those present and perhaps those not at the event. Please speak with the Communications and Engagement team about this process.
- 13.2 Staff and Members should be considerate to their colleagues/peers and should not post information when they have been asked not to. They should also remove information about a colleague/peer if that person asks them to do so. Under no circumstances should offensive comments be made about SDNPA colleagues/peers on the Internet. This may amount to cyber-bullying and could be deemed a disciplinary offence or in breach of the Members' Code of Conduct.
- 13.3 When a staff member or Member is contacted by the press about posts on their social networking site that relates them to the SDNPA, the press office within the Communications and Engagement team must be consulted.

14. SUPPORT SERVICES TO MEMBERS

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

15. ATTENDANCE OF MEMBERS AT MEETINGS ARRANGED BY OFFICERS

- 15.1 Within the Authority, Members are free to meet officers to discuss aspects of the Authority's business. Members should consider the appropriateness of such discussions, especially with junior officers, and where appropriate initially contact the relevant manager. Such discussion should take place only to inform officers and must not result in, or purport to result in, any decision that is outside the scope of the officer's delegated authority.
- 15.2 Officers will arrange many meetings with colleagues or third parties to discharge the routine business of the Authority or to action its decisions. The convention is that Members will not be present at these meetings but will be advised either informally or through reports to Committees, of any relevant discussions and/or outcomes. There may be occasions where a Member may be invited to attend a meeting by the appropriate officer or by a resolution of a Committee.

16. TRAINING AND BRIEFING

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

17. ADVICE

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

18. REVIEW

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

South Downs National Park Authority

Member Role Description

National Park Purposes

The South Downs National Park exists to conserve and enhance the natural beauty, wildlife, and cultural heritage of its area, to promote wide public understanding and enjoyment of them and, with others, to foster the social and economic well-being of communities within the Park.

Role Description

1. Accountabilities

- To the full National Park Authority
- To the public interest.

2. Purpose of the Role and Activity

- **Representing the national interest**
 - To bring the national context to bear in decision making
 - To promote the profile and effectiveness of the National Park Family both through the work of your own Authority and through co-operative action with key stakeholders / partners including National Parks UK (NPUK); NPW & National Parks England (NPE)
 - To act as an ambassador for the NPA and wider National Park Family.
- **Representing the National Park Authority**
 - To represent and be an advocate for the National Park Authority on external outside bodies and at national events
 - To represent the National Park Authority on local partnership bodies, promoting common interest and co-operation for mutual benefit
 - To be an advocate for the special qualities of the National Park
 - To liaise with other members, principal authorities, officers and partner organisations to ensure that the purposes and aims of the National Park Authority are understood and supported.
- **Representing and supporting communities**
 - To represent the interests of the population of the National Park and surrounding communities
 - To be a channel of communication between the community and the National Park Authority particularly in regard to strategies, policies, services and procedures
 - To promote wide public understanding and enjoyment of the Park
 - Foster the economic and social well-being of communities in the Park in the pursuit of its statutory purposes.

- **Making decisions and overseeing National Park Authority performance**
 - To apply the purposes of National Parks in all decision making - balancing and integrating the environmental, social and economic considerations. When there are conflicts between the two statutory purposes the first purpose is given priority
 - To work with the Chair, Chief Executive, other Members, Officers, Stakeholders, Partners and communities to discharge the functions of the NPA and maximise the use of human and financial resources
 - To act with independent judgement using your skills, experience, local, regional and national knowledge, in the best interests of the NPA
 - To collectively participate in the development of policy direction, strategic thinking and innovation within the Authority through the development of management policy and business plans
 - To approve, scrutinize and monitor the implementation of the Authority's policies, procedures and statutory functions
 - To promote and ensure efficiency and effectiveness in the provision of National Park Authority services
 - To support the principles of democracy and accept collective responsibility for the decisions of the NPA and their impact on Authority resources.
- **Internal governance, ethical standards and relationships**
 - To achieve efficient, effective, transparent and accountable governance of the National Park Authority and its affairs
 - To promote and support open and transparent National Park Authority services
 - To support, and adhere to, respectful, appropriate and effective relationships with Members and Officers of the National Park Authority.
 - To adhere to the Members' Code of Conduct and the highest standards of behaviour in representing the National Park Authority
 - To engage in and demonstrate the Authority's commitment to the equalities agenda
 - To adhere to the seven general principles of public life.
- **Personal and role development**
 - To take responsibility for your own personal learning and development (local and national)
 - To actively participating in opportunities for development provided for Members by the National Park Authority, NPUK & NPE.
 - To comply with any Authority approved target for attendance at meetings and training events.

Role Description for Chair/Deputy Chair of the South Downs National Park Authority

In addition to those roles and functions set out in the member role description the following applies to the Chair of the SDNPA:

Purpose of the Role

- To champion the purposes of the National Park and provide dynamic and effective, strategic leadership in partnership with Members and the Chief Executive in the achievement of the Authority's statutory duties and relevant targets.
- To monitor Member performance and offer guidance and support to Members to ensure the good public standing of the Authority is upheld and also to promote the professional development of Members so that they can carry out their role effectively.

Key Functions

- To chair meetings of the Authority and ensure that standing orders and good practice are complied with at all Authority meetings.
- To represent the Authority at a national, regional and local level in its relations with key stakeholders and communities.
- To adhere to and promote the Members' Code of Conduct to encourage the highest standards of behaviour in public office
- To represent the Authority's views as necessary to the press and media, and play an ambassadorial role in promoting positive relationships with external parties and organisations.
- Working with Members and the Chief Executive to ensure that the Authority's actions, decisions and use of resources are consistent with the purposes of designation and the legal responsibilities of the Authority.
- To act as a link between the Authority and the relevant Minister, national agencies and the other national park authorities. Reporting, liaising and representing the Authority to government and working with other national park authorities to influence national and regional policy.
- In accordance with the Authority's Members' Performance Assessment Framework to assess Members' performance as appropriate and report to the Secretary of State and appointing authorities accordingly.
- To be a member of the selection panel which makes recommendations to the Minister on the appointment of new "national" members to the Authority.

- To develop and maintain an effective working relationship with the Chief Executive providing support and guidance as necessary and acting as a bridge between Members and Officers.
- To monitor the welfare of the Chief Executive and ensure that an effective appraisal and development process takes place.
- To foster the working relationship with all other UK National Parks and promote the interests of UK National Parks at local, national and international level

Role of Deputy Chair

- To fulfil the duties of the Chair in his/her absence
- To assist the Chair in specific duties as required.
- To undertake the annual performance review of the Chair
- To support the chair in undertaking annual performance reviews of Members