

North York Moors National Park Authority Finance, Risk, Audit and Standards Committee

7 September 2015

Update on Standards and Members' Code of Conduct

1. Purpose of the Report

- 1.1 To update Members as to the Authority's Standards regime and seek Members views' on the retention of the Authority's existing Code of Conduct; and
- 1.2 To remind Members of the importance of maintaining high ethical standards and complying with the Authority's Code of Conduct.

2. Background

- 2.1 Following the abolition of the Standards Board for England and the enactment of the Localism Act 2011 (the "Act"), the Authority adopted a new Code of Conduct and Standards framework at its meeting of 25 June 2012. In addition to the Code adopted by the Authority, the Localism Act introduced a new criminal offence of failure to declare a Disclosable Pecuniary Interest (as defined in related statutory instruments legislation). The Authority's Code encompasses the legislative provisions relating to Disclosable Pecuniary Interests.
- 2.2 At this time, the Authority's Standards Committee ceased to exist and responsibility for the administration of standards for the Authority was placed with the Finance Risk Audit and Standards Committee, as advised by the Monitoring Officer and an Independent Person.
- 2.3 The Authority has always been committed to high standards of Governance and probity and has adopted an Ethical Framework in addition to the current Members Code of Conduct which also includes a Code of Conduct for Authority Employees. This framework aims to focus on the public interest and morality and lies at the heart of the culture of this organisation. The Authority has also adopted a set of Core Values which should ideally be demonstrated when representing the Authority in any capacity.
- 2.4 It should be noted by Members, that, in the interests of maintaining these high standards of conduct, the Authority has adopted a Code of Conduct which goes beyond those recommended as meeting the minimum requirements of practice as specified by both central government and advisory groups such as the Lawyers in Local Government organisation.

3. Discussion

Code of Conduct

- 3.1 The Act abolished the prescribed Code of Conduct and required each relevant authority to adopt its own code of conduct. The Code is required to deal with the conduct that is expected of its Members when they are acting in that capacity. Section 28 (1) of the Act requires that any code adopted by the Council is, when viewed as a whole, consistent with the Nolan Principles which are:
 - Selflessness
 - Integrity
 - Objectivity

- Accountability
- Openness
- Honesty; and
- leadership

3.2 These principles may be described as pervasive as they run through the body of the Authority's Code of Conduct. They also provide a default position so that even where the Authority's Code may not expressly provide for a certain set of circumstances, Members must be satisfied that when acting in their official capacity, they are acting in accordance with the Nolan Principles.

3.3 In response to the requirement in the Act that each Authority adopt its own Code of Conduct, much discussion took place between Monitoring Officers across the region with a view to establishing a single Code of Conduct for ease of application particularly for dual-hatted Members. However, it became evident that different authorities had differing views as to how far, if at all, any Code should go beyond enforcing the minimum requirements of the legislation. Consequently, each authority adopted its own Code.

3.4 This Authority has always been committed to the highest ethical standards and therefore took a decision to adopt a Code which applied more rigorous requirements on its Members than the letter of the legislation. This includes a requirement to declare personal and prejudicial interests which do not necessarily constitute Disclosable Pecuniary Interests.

3.5 To date, the Code has worked well in providing Members with a framework for addressing ethical standards. It is pleasing to report that no standards' complaints have been raised against Members of this Authority since the end of 2013.

3.6 Members are requested to consider whether the Authority's Code (**attached as an Appendix to this report**), as currently drafted, should remain or whether Members wish the Monitoring Officer to work with the Authority's Independent Person to look at relaxing the Code with a view to providing the minimum provisions required by the Act.

4. **Ongoing Compliance**

4.1 Whilst noting the pleasing position that no standards complaints have been raised against Members of this Authority recently, Members are reminded that complaints were upheld against three Members of the Authority in 2013. These related to failure to disclose personal and prejudicial interests in relation to the Potash mining application. One of the interests amounted to a Disclosable Pecuniary Interest for the purposes of the legislation.

4.2 The Crown Prosecution Service took a decision in this instance not to prosecute the failure to disclose the Disclosable Pecuniary Interest. However, there have now been other cases where the Crown Prosecution Service have prosecuted Councillors for this offence. Recently the former Leader of Dorset County Council was convicted of an offence under the pecuniary provisions of section 31 of the Act and given a six month conditional discharge and ordered to pay £930 in costs, the lowest penalty the court could impose. The conviction related to the fact that the Councillor was present at a meeting about the East Dorset Core Strategy and, despite having a Disclosable Pecuniary Interest, participated in the discussion and voted. At the time, he was a non-executive director of a housing charity and, although he was not in receipt of a salary, he had received various remuneration payments. The housing charity owned land that was being considered for inclusion as part of the core strategy.

4.3 The criminal conviction, together with related adverse publicity for both the Councillor and the Authority in question, should serve as a timely reminder to all Members of the seriousness of their own personal responsibilities in relation to compliance with the Authority's Code of Conduct and the seriousness of failure to comply. Members are also reminded that the Authority's Code of Conduct may differ from the Code of any other public body of which they are a member and they should take time to fully familiarise themselves with the Authority's code. The Authority's Monitoring Officer, Deputy Monitoring Officer and legal advisers are happy to assist Members with any queries they may have. However, Members are reminded that they are personally responsible for ensuring that they comply with the Code.

5. Financial and Staffing Implications

5.1 There are no significant staffing implications to this report.

6. Legal and Sustainability Implications

6.1 It is a legal requirement for the Authority to ensure that it has arrangements in place to ensure high standards of ethics and conduct on the part of its Members.

7. Recommendations

7.1 That Members note the Authority's Standards regime and provide views on the retention of the Authority's existing Code of Conduct; and

7.2 that Members note the importance of maintaining high ethical standards and complying with the Authority's Code of Conduct.

Contact Officer:
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Monitoring Officer

Background documents to this report

File Ref.

Code of Conduct for the Members of the North York Moors National Park Authority

The North York Moors National Park Authority (“the Authority”) has adopted the following code dealing with the conduct that is expected of Members of the Authority when they are acting in that capacity. This code of conduct complements the Authority’s core values which are included in the Ethical Framework.

The code is intended to be consistent with the following seven principles, and should be read in the light of those principles, namely that Authority Members will act with selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

1. You must treat others with respect.
2. You must act in a way which does not bully, harass, intimidate or attempt to intimidate any person.
3. You must ensure that the impartiality of anyone who works for or on behalf of the Authority is not compromised by your actions.
4. Your conduct should be exemplary and you must not conduct yourself in a manner which could reasonably be regarded as bringing the Authority, or your office as a member of the Authority, into disrepute.
5. 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 any advantage or disadvantage.
6. If you are in receipt of any gift or hospitality which is attributable to your membership of the Authority, or any offer of any such gift or hospitality, you must disclose this to the Monitoring Officer; and you must decline to accept any such gift or hospitality which could reasonably be perceived as creating an obligation upon the Authority, or upon yourself as a member of the Authority.
7. You must not knowingly prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.
8. You must keep information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, secure and not disclose unless:
 - You have the consent of a person authorised to give it; or
 - You are required by law to do so; or
 - The disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information to any other person; or
 - The disclosure is reasonable, in the public interest, made in good faith, and made in compliance with the reasonable requirements of the Authority.
9. Subject to paragraph 11, you must register in the Authority’s Register of Members Interests information regarding your personal interests. In this code of conduct “your personal interests” means any Disclosable Pecuniary Interest (as defined by statutory regulations in force from time to time) and also those other interests set out in paragraph 10, and which interest is held
 - by you, or
 - to your knowledge, by your spouse or civil partner, by a person with whom you are living as husband and wife, or by a person with whom you are living as if you were civil partners.

You must register information regarding your personal interests by giving written notice to the Monitoring Officer, who maintains the Register; and you must give such notice:

- within 28 days of your appointment as a member of the Authority; and
- thereafter, within 28 days of any change taking place in your personal interests.

10. The following are personal interests within paragraph 9 (**other personal interests may arise under paragraph 13**):

- Your membership of any body to which you are appointed by the Authority;
- Your membership of any public body;
- Your membership of any charitable body;
- Your membership of any political party, trade union, or other body one of whose principal purposes is to influence public opinion or policy;
- Any business which you carry on or are involved in carrying on;
- Any partnership of which you are a partner;
- Any employer for whom you work;
- Any person (other than the Authority) which has made a payment to you in connection with you carrying out your duties as an Authority Member;
- Any land in the Authority's area in which you have a beneficial interest or a licence to occupy;
- Any land owned by the Authority of which you, or any of the persons mentioned at (a) to (g) above, are the tenant or licensee.

11. Where you consider that disclosure of the details of any of your personal interests could lead to you, or a person connected with you, being subject to violence or intimidation, you may so inform the Monitoring Officer; and if the Monitoring Officer agrees, a note will be made in the register to the effect that you have a personal interest, details of which are withheld under Section 32 of the Localism Act 2011.

12. Where you attend a meeting of the Authority, or of a Committee of the Authority, and you are, or ought reasonably to be, aware that any of your personal interests are relevant to an item of business which is being considered, then unless the interest is one which has been noted under paragraph 11, **or relates solely to your position as an ordinary Member of an appointing local authority**, you must disclose to that meeting the existence and nature of that interest at the commencement of that item of business, or when the interest becomes apparent, if later.

13. Where you attend a meeting of the Authority, or of a Committee of the Authority, and you are, or ought reasonably to be, aware that a decision in relation to any item of business which is to be transacted might reasonably be regarded as affecting your well being or financial position, or the well being or financial position of a person described in paragraph 14 to a greater extent than the majority of inhabitants of the North York Moors National Park, then you must disclose to that meeting the existence and nature of that interest at the commencement of that item of business, or when the interest becomes apparent, if later.

14. The persons referred to in paragraph 13 are:

- (a) a member of your family;
- (b) any person with whom you have a close association;
- (c) in relation to persons described in (a) and (b), their employer, any firm in which they are a partner, or company of which they are a director or significant shareholder.

15. If a member has

- (a) a Disclosable Pecuniary Interest; and/or
- (b) an interest referred to in paragraph 13 which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest

in a matter being discussed at any meeting that member must leave the room in which the meeting is being held whilst that matter is discussed and voted upon.