

North York Moors National Park Authority

25 June 2012

Member Code of Conduct and Framework for Dealing with Member Complaints

1. Purpose of the Report

- 1.1 To provide members with a Draft Member Code of Conduct and Framework for dealing with complaints relating to the breach of the Code for approval.

2. Background

- 2.1 The Authority is required under the Localism Act 2011 to have in place a revised framework to be operational from 1 July 2012, from which date the responsibility for Standards will rest entirely with the Authority.
- 2.2 The Standards Committee will cease to exist and detailed responsibility will rest with the Finance Risk Audit and Standards Committee, who will be advised by an Independent Person.
- 2.3 The Authority is committed to high standards of Governance and probity and has adopted an Ethical Framework which in addition to the current Members Code of Conduct includes a Code of Conduct for Authority Employees. This framework aims to focus on the public interest and morality and this is at the heart of the culture of this organisation and should be maintained in relation to any successor Member Code of Conduct and standards framework. The Authority has also adopted a set of Core Values which should ideally be demonstrated when representing the Authority in any capacity. However, in determining the framework to be adopted the Authority has also been mindful of the need for the processes to be proportionate and to ensure that as far as is practicable consistency with other local authorities and ensure that best practice is promoted through sharing.
- 2.4 The Draft Code of Conduct and Framework for dealing with complaints has previously been discussed by the Authority and the Standards Committee and the documents have been amended in the light of Member comments. The arrangements proposed are consistent with the statutory requirements and the principles agreed to be adopted when devising the Code. These were discussed in detail at the Special Authority Meeting on 24 May 2012.
- 2.5 The detail of the impact of the new legislation is still emerging and as a result it is proposed that a review of the arrangements is undertaken within the first year of its operation.

3. Proposed Regime

- 3.1 The draft Code of Conduct is attached at **Appendix A** and this has been amended since the Special Authority Meeting on the 24 May to include further detail on the circumstances in which a Member is required to disclose an interest during a meeting, which is based on the current code.

Members would also be required to leave the room if a matter in which the Member has a Disclosable Pecuniary Interest as determined by the Secretary of State or a significant interest as defined by paragraphs 13 and 14 of the Code of Conduct. The code also makes reference to the Authority's core values.

3.2 **Appendix B** to this report details the Framework recommended to be adopted when dealing with allegations of a breach of the Member Code of Conduct. This has been amended to change the length of time in relation to the submission of information to 15 working days and the length of time for issue of a determination to 5 working days. The framework makes provision for an appeal at paragraph 13. These changes have been incorporated in line with the recommendations made at the Special National Park Authority on 25 May 2012.

4. **Financial and Staffing Implications**

4.1 There are no significant financial and staffing implications. The proposals seek to find a proportionate response to Standards issues, reflecting the small size of the Authority, thus keeping the resource implications to a minimum.

5. **Sustainability Appraisal**

5.1 A Sustainability Assessment is not required because the report is a:

- Progress/Information report.

6. **Legal Implications**

6.1 Any legal implications are set out in this report.

7. **Recommendations**

7.1 That Members comment and approve (amended as agreed)

- (a) The draft Code of Conduct at **Appendix A**.
- (b) The proposed framework for dealing with allegations of breaches of the Code of Conduct at **Appendix B**.

Contact Officer:
Irene Brannon
Director of Corporate Services
01439 770657

Background documents to this report

File Ref

Draft 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:

- 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, 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.

North York Moors National Park Authority
Arrangements for Dealing with Allegations of
Breach of the Members' Code of Conduct

These arrangements set out how a complaint can be made to the North York Moors National Park Authority (the "Authority") that an elected or voting co-opted Member has failed to comply with the Council's Code of Conduct for Members. The arrangements also set out how such a complaint will be dealt with by the Authority. The arrangements are made under Sections 28(6) and (7) Localism Act 2011.

1. Independent Person

The Authority has appointed an Independent Person whose views must be sought by the Authority before it takes any decision on an allegation which has been decided should be investigated. The Independent Person's views can also be sought by the Authority at any other stage or by a Member against whom an allegation has been made. In practice complaints are dealt with by the Monitoring Officer, and by the Finance Risk, Audit and Standards Committee (the "Committee").

If the Independent Person has a conflict of interest or does not for any other reason consider it appropriate that s/he is involved with the assessment or consideration of a complaint, the Monitoring Officer will refer the Complaint to the Independent Person of another public authority who has been duly appointed in accordance with the provisions of the Localism Act 2011.

2. Members' Code of Conduct

The Authority has adopted a Code of Conduct for Members, attached as an Appendix to these arrangements. It is also published on the Authority's website.

3. Making a Complaint

If someone considers there has been a breach of the Code of Conduct by a Member, and wants to make a complaint, they should write or send an email to the Authority's Monitoring Officer:

Lisa Dixon
Head of Legal and Support Services
Scarborough Borough Council
Town Hall
St Nicholas Street
Scarborough
YO11 2HG

email: lisa.dixon@scarborough.gov.uk

Where possible, the standard complaint form should be used. It can be downloaded from the Authority's website, or is available from the Monitoring Officer at the above address.

It is important to provide a name and contact address. Please note that the Authority will not investigate anonymous complaints unless there is a significant public interest in doing so.

4. Assessment for Investigation or Other Action

Every complaint relating to the Code of Conduct will be received by the Monitoring Officer.

The Member who is the subject of a complaint ('the Subject Member') will be advised of the complaint and copied into any correspondence or complaint form received from the Complainant. The Monitoring Officer will review complaints and consult with the Independent Person in doing so, and will decide whether a complaint merits formal investigation.

The Monitoring Officer may request more information to assist the decision as to whether investigation is appropriate.

The Subject Member may also be requested to provide information about the matter.

The Monitoring Officer will advise you, in writing, of his/her decision about whether or not the matter should be investigated.

If the complaint identifies criminal conduct or breach of other regulation, the Monitoring Officer will consult the Police and/or such other regulatory agencies as he/she considers appropriate.

The Monitoring Officer will not refer for investigation matters which are, in his/her opinion, and after consultation with the Independent Person, vexatious, offensive, trivial or politically motivated.

If the Monitoring Officer has a conflict of interest or does not for any other reason consider it appropriate that s/he undertakes initial assessment of a complaint, it will be referred to the Committee.

5. Informal Resolution

Wherever possible the Monitoring Officer will seek to resolve a complaint informally without the need for formal investigation or referral to the Committee.

This may involve trying to mediate between the parties, aiming to clarify misunderstandings, or encouraging discussion between the Complainant and Subject Member to enable a resolution between them, or where appropriate, an apology. It may also involve other remedial action by the Authority after discussions with the Chair of the Authority (who may take action to ensure a satisfactory resolution).

If the Member or the Authority make a reasonable offer of local resolution but the Complainant is not willing to accept the offer, the Monitoring Officer will take this into account in deciding whether a complaint merits formal investigation.

Where complaints about Members are made informally to the Chair or Chief Executive the complainant will always have the formal mechanism outlined to them as a readily available option. Where the complainant does not wish to make a formal complaint the Chair or Chief Executive as appropriate, in consultation with the Monitoring Officer may take appropriate steps to resolve the informal complaint.

6. **Investigation**

If the Monitoring Officer concludes that a matter merits investigation, the Complainant will be invited to submit all information they wish to submit in support of their allegation within 15 working days of request.

Once the information is received it will be sent to the Subject Member, who would also be invited to submit all information they wish to be considered in response within 15 working days.

The Monitoring Officer may appoint a member of his/her staff or the Authority's staff to oversee the gathering of information relating to the matter which will comprise the investigation ('the Nominated Officer'). The Nominated Officer will consider whether any further information is needed and take steps as far as possible to secure its production.

A report containing the information provided by the Complainant and Subject Member will be prepared by the Nominated Officer, and copied to both parties and sent to the Monitoring Officer. The report will conclude with a recommendation as to whether it is considered that there has been a breach of the Code.

7. **Conclusion of no evidence of failure to comply with the Code of Conduct**

The Monitoring Officer will receive and review the report and if satisfied that the report is sufficient, the Monitoring Officer will write to the Complainant and the subject Member notifying them that s/he is satisfied that no further action is required.

8. **Conclusion that there is evidence of failure to comply with the Code of Conduct**

The Monitoring Officer will review the report and consult the Independent Person as to whether local resolution may be possible. If any suggested resolution is not agreed, the matter will be referred to the Committee for consideration.

If the matter can reasonably be resolved in the Monitoring Officer's opinion without the need for a hearing he/she will consult the Independent Person, with the Complainant and Subject Member, to seek to agree a fair resolution which will also ensure higher standards of conduct for the future.

As with initial assessment this can include the Subject Member accepting that conduct was unacceptable and offering an apology, and/or other remedial action by the Authority. If the Subject Member complies with the suggested resolution the matter will be reported to the Committee but no further action will be taken.

9. **Hearing**

If local resolution is not appropriate, or the Complainant or Subject Member are not satisfied with the proposed resolution, or the Subject Member is not prepared to undertake any proposed remedial action, the report will be reported to a Hearings Panel ('the Panel') of 3 Members from the Committee. The Independent Person will attend all Panel meetings and will be consulted by the Panel in making its decision about whether there has been a breach of the Code and any action to be taken.

The Panel will meet to decide whether the Member has failed to comply with the Code of Conduct, and if so, whether to take any action.

The report will be presented to the Panel. The Complainant and the Subject Member will be invited to attend the Panel to present information and make representations in relation to the allegations that there has been a failure to comply with the Code of Conduct. The Independent Person will be present. The Panel can proceed in the absence of either the Subject Member or the Complainant where it deems this to be appropriate.

The Subject Member will have the right to be accompanied by another Member or lay supporter whose presence is essential to ensure that any particular needs of the Subject Member are met eg. a 'signer' or translator). The Subject Member does not have the right to be accompanied by a legal representative and the person accompanying cannot make representations on behalf of the Subject Member and is only able to observe or perform a necessary function to ensure that any particular needs of the Subject Member are met.

The Panel shall consult with the Independent Person and be advised by the Monitoring Officer. It may conclude:

- (a) that the Member did not fail to comply with the Code of Conduct;
- (b) that the Member did fail to comply with the Code of Conduct, and if so, the Panel may determine whether any action is necessary.

The Subject Member will have an opportunity at this stage to make representations to the Panel and consult with the Independent Person. The Panel will then decide what action to take.

10. What action can the Panel take if there has been a breach of the Code of Conduct?

The Panel may:

- (a) issue a letter of censure to the Subject Member and where appropriate require an apology to be given to the Complainant;
- (b) recommend to the Authority that he/she be removed from any or all committees or sub-committees of the Authority;
- (c) instruct the Monitoring Officer to arrange training for the Subject Member.

The Panel has no power to suspend or disqualify the Subject Member or to withdraw allowances.

11. What happens at the end of the hearing?

The Chair of the Panel will announce the decision of the Panel as to whether the Subject Member has failed to comply with the Code of Conduct and as to any action it deems necessary. The Monitoring Officer will prepare a Decision Notice which will be given to the Subject Member and the Complainant within 5 working days. The outcome will be reported to the next meeting of the Committee.

12. **Revision of these arrangements**

The Authority may by resolution agree to amend these arrangements and delegates to the Chair of the Panel the right to depart from these arrangements where he/she considers it expedient to do so to secure the effective and fair consideration of any matter.

13. **Appeals**

If a Complainant or the Subject Member wishes to appeal against a decision of the Panel, the Complainant or Subject Member (as relevant) may refer the decision to the Appeals Committee, which will consist of another three Members of the Committee which will be advised by an Independent Person. The function of this Appeals Committee will be to meet to review the decision and then undertake the following:

- (a) confirm the decision of the Panel as relevant; or
- (b) take such action as the Committee deems appropriate in respect of the complaint as permitted by these arrangements.

There is no right of appeal against the decision of the Monitoring Officer or Appeals Committee for either the Complainant or the Subject Member.

If, after appeal, the Complainant feels that the Authority has failed to deal with the complaint properly they may make a complaint to the Local Government Ombudsman.

1 July 2012