

NFNPA/SC 47/15

NEW FOREST NATIONAL PARK AUTHORITY

STANDARDS COMMITTEE – 11 JANUARY 2016

REVIEW OF MEMBERS' CODE OF CONDUCT

Report by: Julia Mutlow, Solicitor & Monitoring Officer

Summary:

As part of the New Forest National Park Authority's ('the Authority') ongoing review of its governance arrangements, this report is brought to Members to update them on Codes of Conduct adopted by other National Parks and adjacent Councils and seek views as to whether the Authority's Members' Code of Conduct requires amendment to ensure its ongoing fitness for purpose.

Recommendation:

Members are asked to consider the information in this report and recommend to the full Authority one of the following options:

1. that the Code should be retained in its existing form, subject to minor amendments as detailed in **Annex 1**, to ensure its robustness and fitness for purpose; or
2. that the Code should be substantively amended to require declaration of Disclosable Pecuniary Interests only as required by law, and remove the requirement to disclose non-pecuniary interests in its entirety as detailed in **Annex 2**.

1. BACKGROUND

- 1.1. By virtue of the Localism Act 2011, and in common with other National Parks and local authorities from which Members are appointed, the New Forest National Park Authority is required to adopt a Code of Conduct.
- 1.2. By law, the Code must be consistent with the principles of public life set out in the Act and include certain interests, known as 'disclosable pecuniary interests'. It may also include any other provisions that the Authority considers appropriate.
- 1.3. When the Localism Act came into force, the Authority adopted the existing Code (which has been subject to minor amendments since its adoption), and Members considered that, in the interests of transparency and good governance, it was appropriate to broaden the Code's remit beyond the mandatory requirements to include a requirement to declare a series of non-pecuniary interests. These non-pecuniary interests were listed in Part 2B of the Code and mirrored the provisions of the Authority's previous Code which was based on personal and prejudicial interests.
- 1.4. It is considered an appropriate juncture to review the Authority's Code of Conduct to ensure its continued fitness for purpose and make any amendments that Members consider necessary.

2. PURPOSE OF THE CODE

- 2.1. The Code of Conduct is intended to provide a framework which assists Members in ensuring probity and openness in their public life.
- 2.2. Historically, the Authority has received few complaints about breaches of the Code. Those that have been received, and considered by Members of the Authority's Standards Committee, have been found not to constitute a breach of the Code. Without exception the complaints have related to perceived breaches of non-pecuniary interests which form the discretionary, rather than mandatory, section of the Code.
- 2.3. When a complaint is received, regardless of its merits, there is an inevitable cost to the Authority in terms of officer and Member time taken in preparing documentation, arranging Members' panel meetings, considering the complaint and drafting decision notices.

3. POSITION ADOPTED BY OTHER NATIONAL PARKS AND COUNCILS

- 3.1. To assist Members in their consideration, enquiries have been made of other National Parks and constituent local authorities to provide some benchmarking as to what other authorities have adopted. It should be noted that several of the national park authorities who provided details of the Code indicated that they too may be carrying out reviews of their respective arrangements in the near future. The summary below therefore outlines the current position of those who responded.
- 3.2. The table below details the information that has been obtained:

Authority/Council	Details
Lake District	The LDNPA broadly follows the NFNPA's existing code and includes a requirement to disclose the equivalent of this Authority's non-pecuniary interests. Members may not participate in the discussion or vote where they have such an interest.
Pembrokeshire	The PNPA includes similar provisions to the NFNPA's existing code requiring disclosure of personal/prejudicial interests, over and above the disclosable pecuniary interests required by law. Members may make a statement on items of business where they have an interest of this nature but must then withdraw.
Snowdonia	The SNPA includes similar wider provisions to the NFNPA's existing code requiring disclosure of personal/prejudicial interests over and above the disclosable pecuniary interests required by law. Members may make representations on items of business where they have an interest of this nature but must then withdraw.

South Downs	The SDNPA's Code is not as quite as broad as this Authority's existing Code. However, it does include a requirement to disclose any 'public service interest' which is defined as membership of a public or charitable, any body a Member is appointed to by the Authority, and any political party, trade union or other body whose purpose is to influence public opinion. Members are permitted to take part in the discussion and vote.
Yorkshire Dales	The YDNPA includes similar wider provisions to the NFNPA's existing code requiring disclosure of personal/prejudicial interests over and above the disclosable pecuniary interests required by law. Whether Members may make representations on items of business where they have an interest of this nature and/or withdraw is dealt with in the YDNPA's standing orders as from time to time adopted.
Hampshire County Council	HCC's Code is less stringent in its requirements. Whilst it lists personal interests similar to those details by other authorities, it does not make it a duty to disclose such interests. Instead, it places the onus on Members to declare such interests which he/she considers appropriate and allows them further discretion as to whether, having taken advice, they should withdraw.
New Forest District Council	NFDC's Code refers to interests being dealt with in the Council's Standing Orders, which do require the disclosure of non-pecuniary interests, although Members may speak and vote unless they are precluded from doing so by the rules relating to bias and predetermination.

4. CONSIDERATION BY MEMBERS

- 4.1. Having considered information received from other organisations, it appears that most authorities have adopted a wider Code than that strictly required by law. Some Codes are more prescriptive than others, whilst some – such as Hampshire County Council – provide for Members to register personal interests only if they consider it appropriate rather than making this obligatory.
- 4.2. It is a matter for Members whether the wider more prescriptive Code is retained. However, if Members decide to simplify the Code and remove the discretionary elements, they will no doubt be mindful of the fact that, when acting in their capacity as an Authority Member, their actions must be consistent with the seven principles of public life. Furthermore, they must take care not to fall foul of the rules pertaining to pre-determination when involved in decision making. Therefore, there may still be occasions when a Member considers it appropriate to withdraw from a meeting and not to take part in decision making on a particular item of business, even if they do not have a disclosable pecuniary interest.
- 4.3. In these circumstances, and as required by general obligation 10 in Part 1 of the Code, Members must have regard to the advice of the Chief Finance Officer and Monitoring Officer, where offered, and are always encouraged to seek advice if in doubt.

RECOMMENDATION

Members are asked to consider the information in this report and recommend to the full Authority one of the following options:

1. that the Code should be retained in its existing form, subject to minor amendments as detailed in **Annex 1**, to ensure its robustness and fitness for purpose; or
2. that the Code should be substantively amended to require declaration of Disclosable Pecuniary Interests only as required by law, and remove the requirement to disclose non-pecuniary interests in its entirety as detailed in **Annex 2**.

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Papers: NFNPS/SC 47/15 Annex 1 New Forest National Park Authority Code of Conduct

NFNPS/SC 47/15 Annex 2 New Forest National Park Authority Code of Conduct