| YORKSHIRE DALES NATIONAL PARK AUTHORITY | ITEM 6 |
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| **Date:** | **12 December 2023** |
| **Report** | **CODE OF CONDUCT REVIEW** |

## Purpose of the report

1. To consider amendments to the Authority's adopted Code of Conduct following the introduction of the Local Government Association ("LGA") Model Code of Conduct.

## RECOMMENDATION

2. To adopt the revised Code of Conduct attached in the **Appendix**.

## Strategic Planning Framework

3. The information and recommendation(s) contained in this report are consistent with the Authority's statutory purposes and its approved strategic planning framework:

**Corporate Plan**
Objective 32: Operate governance arrangements that are fit for purpose as reported through the Annual Governance Statement and the Annual Governance Report.

## Local Government Association Model Code of Conduct

4. The Committee on Standards in Public Life ("Committee") published a report in January 2019 following its review of Local Government Ethical Standards. The report recognised that clear, relevant, proportionate codes of conduct are central to maintaining ethical standards in public life. In order to ensure consistency of approach, the Committee recommended that there should be a national model code of conduct, but that this should not be mandatory and should be able to be adopted by individual authorities.

5. The Local Government Association ("LGA") subsequently developed a Model Councillor Code of Conduct ("Model Code") that can be adopted in full or in part with local amendments. The LGA has also published supporting guidance which is aimed to help understanding and consistency of approach towards the Model Code.

6. At its meeting on 2 November 2021, the Standards Committee resolved to defer a review of the Code of Conduct for Members until the establishment of the two new Unitary authorities. Both North Yorkshire Council and Westmorland and Furness Council have adopted the Model Code with amendments. Lancaster City Council and Lancashire County Council do not appear to have done so yet.

7. The Lake District, Northumberland, New Forest, South Downs NPAs and the Broads have adopted the Model Code in part with local amendments. The Peak District and Exmoor NPAs have not updated their Codes. The North York Moors NPA have reviewed and made minor amendments to their Code but opted not to adopt the Model Code.

## Authority's Code of Conduct

8. The Authority adopted its Code of Conduct for Members in July 2012 in accordance with the provisions of the Localism Act 2011. The Code of Conduct was most recently reviewed in March 2020 when it was updated to include an obligation on Members to promote an inclusive and diverse culture in the Authority.

9. It is important to note that adoption of the Model Code is entirely voluntary. The Authority can choose to adopt it in its entirety, or not at all, or adapt it to suit local circumstances. Whether or not any changes are appropriate should therefore be considered in the context of the Authority's circumstances.

10. Members are familiar with the current Code and there have been no incidents which have caused the Monitoring Officer to recommend changes to it. Since the current Monitoring Officer's appointment in October 2019, three Code of Conduct complaints have been received and considered by the Monitoring Officer. Two were dealt with by way of informal resolution and one warranted no further action. The Model Code is considered overly complex for the needs of the Authority. It is nevertheless sensible to undertake a light touch review of the Code and consider whether there are any benefits in making minor amendments to maintain and promote high ethical standards.

## Review of Code of Conduct for Members v Model Code

11. A comparison of the two codes suggests many of the differences are those of style and format rather than substance. The Code attached at the **Appendix** shows suggested changes to the Authority's Code highlighted. The paragraphs below set out officers' broad consideration of the Authority's Code against the Model Code

## "Introduction/Application of code"

12. It is considered that the preliminary sections of the Model Code highlighting the purposes of the code and general principles of Member conduct add nothing of substance over and above the general Nolan Principles that the Authority's Code already refers to. The Nolan Principles provide a concise summary of the expected behaviours that underpin Member conduct.

13. The Model Code also seeks to extend the application of the Code to circumstances when the Member gives *the impression* that they are acting as a Member of the Authority. Arguably this goes beyond the scope of the current legislation in the Localism Act and is therefore not recommended.

**"General Obligations"**

14. The Authority's Code refers to intimidation but not bullying or harassment. It is recommended that the Authority's Code specifically refers to bullying and harassment. Whilst this is not a form of behaviour that has led to complaints over recent years, the inclusion of prohibitions on bullying and harassment is one of the best practice recommendations of the Local Government ethical standards report.

15. It is also suggested that the Code makes further explicit reference to equalities and non-discrimination.

**"Interests"**

16. The main difference between the two codes relates to Member participation in the debate and vote when they have interests which are not a Disclosable Pecuniary Interest (DPI).

17. The Authority's Code provides that Members are only prohibited from participating etc. if they have a DPI in a matter (i.e. the DPI is directly related to the item of business). In respect of all other interests, the Authority's Code does not preclude Members participating (although Members do, of course, have to be mindful of the rules re bias and predetermination in decision making and making decisions with an open mind in the public interest).

18. The Model Code takes a far stricter stance on interests drawing a distinction between interests that are "directly related" to and interests that are "affected" by an item of business. In the Model Code, a Member is prohibited from participating etc. (unless granted a dispensation) on an item of business if:

    **(i)** the item **directly relates** to the financial interest or wellbeing of a member's registrable interest or the financial interest or wellbeing of the Member or a connected person; or

    (ii) the item **affects** the financial interest or wellbeing of the member or a connected person or a body included under the member's registrable interest to a greater extent than the majority of the inhabitants of the Park and people would think their judgement of the public interest would be clouded.

19. In practice, issues around interests and participation normally arise at the Authority in the context of planning committee. Past experience indicates that Members are generally very mindful of public perception and the rules

regarding bias /predetermination. They tend to seek Monitoring Officer advice and if there is any doubt, excuse themselves from the debate and vote.

20. Officers consider that the provisions in the Model Code regarding participation are overly complicated in the context of the Authority's work and standards of Member conduct. It is suggested that if any change is considered necessary, the Code should simply contain an obligation on Members to consider the issue of public perception and potential conflict with a Member's public duties if the financial position or wellbeing of the Member/connected person is **affected** by an item of business (i.e. a prejudicial interest test).

## Other matters

21. The review of the Code has also been used as an opportunity to make other slight amendments to the Code (e.g. increase gift and hospitality limit to £50 and include specific reference to non-participation in decision making if a member has a DPI rather than referring to the provision in Standing Orders)

## Standards Committee Views

22. The proposed changes to the Authority's Code were considered by the Standards Committee at its meeting on 5 December 2023. Due to the print deadline for Authority papers it has not been possible to include feedback from Standards Committee in this report, however, the Monitoring Officer will provide Members with a verbal update at the Authority meeting.

## Conclusion

23. The Authority's adopted Code is clear and concise and appears well understood and observed by Members. In that context, it is not considered proportionate to replace the adopted code with the Model Code. However, a number of minor changes to the general obligations ensure that the two codes require similar standards of behaviour and potential amendments to the provisions regarding declaration of interests and participation could provide further reassurance that Members will avoid participating in decision making where there is a potential conflict of interest.

**Clare Bevan**
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**Clare Burrows**
**Monitoring Officer**

23 November 2023

YORKSHIRE DALES
National Park Authority

**Appendix**

# Code of Conduct

## For Members of the Yorkshire Dales National Park Authority

| Document Status | |
|---|---|
| Date adopted | 12 December 2023 |
| Adopted by | Authority |
| Lead Officer | Monitoring Officer |
| Date of next review | December 2028 |

## 1. Introduction

1.1 The Yorkshire Dales 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.

1.2 The Code is intended to be consistent with the following Seven Principles of Public Life, 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. These principles are set out in more detail in **Appendix A** to this Code.

## 2. General Obligations

2.1 You must treat others with courtesy and respect.

2.2 You must not bully, harass, intimidate or attempt to intimidate any person.

2.3 You must not do anything which compromises or is likely to compromise the impartiality of anyone who works for or on behalf of the Authority.

2.4 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.

2.5 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.

2.6 You must not knowingly prevent, or attempt to prevent, another person from gaining access to information to which they are entitled by law.

2.7 You must not disclose information which is given to you in confidence, or information which you believe or ought reasonably to be aware is of a confidential nature, unless:

i. You have the consent of a person authorised to give it; or
ii. You are required by law to do so; or
iii. 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
iv. The disclosure is reasonable, in the public interest, made in good faith, and made in compliance with the reasonable requirements of the Authority after consultation with the Authority's Monitoring Officer.

2.8 Where, as a Member of the Authority, you have been involved in making any decision which is subsequently subject to scrutiny within the Authority, you must not take part in the scrutiny process. In this paragraph, "scrutiny" means the formal examination by the Authority, a Committee of the Authority, or a

group of people including Members of the Authority, of a policy or decision previously approved or taken by or on behalf of the Authority, in order to reach a view on its rectitude, efficacy, performance or value for money. For the purposes of this paragraph, you do not take part in a scrutiny process if you simply offer evidence or opinion to the scrutiny body, and do not participate in its decision.

2.9 You should promote equalities and 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 and no person is discriminated against unlawfully.

## 3. Registration and Declarations of Interest

3.1 Subject to paragraph 3.4, 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:

(i) any disclosable pecuniary interest (as defined by statutory regulations in force from time to time and set out for information in the note below) which 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; and

i.

(ii) any other interest as defined in paragraph 3.3 below which is held by you.

3.2 You must register information regarding your personal interests by giving written notice to the Monitoring Officer, who maintains the Register; 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.

3.3 The following are personal interests within paragraph 3.1(ii):

a) Your membership of any body to which you are appointed by the Authority;
b) Your membership of any public body;
c) Your membership of any charitable body;
d) Your membership of any political party, trade union, or other body one of whose principal purposes is to influence public opinion or policy;
e) Any land owned by the Authority of which any of the persons mentioned at (a) to (d) above, are the tenant or licensee.

3.4 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 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.

3.5 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 3.4 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.

3.6 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 wellbeing or financial position, or the wellbeing or financial position of a person described in paragraph 3.7 to a greater extent than the majority of inhabitants of the Yorkshire Dales 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.

3.7 The persons referred to in paragraph 3.6 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 shareholder.

3.8 Where you disclose an interest pursuant to paragraph 3.6, you will need to consider whether the nature of the interest is such that it may, or may reasonably be perceived to, conflict with your public duties. If a reasonable member of the public, knowing all the facts, would believe that it is likely to prejudice your judgement of the wider public interest, you should not participate in the discussion or vote on the matter and 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).

3.9 Where you have a disclosable pecuniary interest in an item of business you must withdraw from the meeting whilst the matter is being considered, unless you have obtained a dispensation from the Standards Committee.

## 4. Gifts and Hospitality

4.1 If you are in receipt of a gift or hospitality with a value of £50 or more 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.

**APPENDIX A**

# The Seven Principles of Public Life (The Nolan Principles)

1. Selflessness
Holders of public office should act solely in terms of the public interest.

2. Integrity
Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

3. Objectivity
Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

4. Accountability
Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

5. Openness
Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

6. Honesty
Holders of public office should be truthful.

7. Leadership
Holders of public office should exhibit these principles in their own behavior. They should actively promote and robustly support the principles and be willing to challenge poor behavior wherever it occurs.

## APPENDIX B

*This Appendix is not part of this Code of Conduct but it contains, for information, the currently defined list of disclosable pecuniary interests which must be registered for Members, their spouse or civil partner, or any person with whom they are living as if they were their spouse or partner.*

i. Any employment, office, trade, profession or vocation carried on for profit or gain.

ii. Any payment or provision of any other financial benefit (other than from the Authority) made or provided in the last 12 months in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the Member's election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Unions and Labour Relations (Consolidation) Act 1992.

iii. Any contract under which goods or services are to be provided or works are to be executed and which has not been fully discharged which is made:
- between the Authority and the Member; and/or
- to the Member's knowledge, by their spouse or civil partner, by a person with whom they are living as husband and wife, or by a person with whom they are living as if they were civil partners; and/or
- between any body in which any of the above have a beneficial interest.

iv. Any beneficial interest in land (not including an interest which does not carry with it a right to occupy the land or to receive income) which is within the area of the Yorkshire Dales National Park.

v. Any licence (alone or jointly with others) to occupy land in the area of the Yorkshire Dales National Park for a month or longer.

vi. Any tenancy where (to the Member's knowledge) the landlord is the Authority and the tenant is a body in which the Member; and/or, to the Member's knowledge, their spouse or civil partner, a person with whom they are living as husband and wife, or a person with whom they are living as if they were civil partners has a beneficial interest.

vii. Any beneficial interest in securities of a body where that body (to the Member's knowledge) has a place of business or land in the Yorkshire Dales National Park and either:
- The total nominal value of the securities exceeds £25000 or one hundredth of the total issued share capital of that body; or
- 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 Member and/or, to the Member's knowledge, their spouse or civil partner, a person with whom they are living as husband and wife, or a person with whom they are living as if they were civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.