YORKSHIRE DALES NATIONAL PARK AUTHORITY **ITEM 6**

Committee: **STANDARDS**
Date: **4 February 2020**

Report **REVIEW OF PROTOCOL ON MEMBER / OFFICER RELATIONS**

Purpose of the report

1. To review the Protocol on relations between Members and Officers ("the Protocol").

RECOMMENDATION

2. To consider and approve the revised Protocol attached at **Appendix A.**

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 36: Operate governance arrangements that are fit for purpose as reported through the Annual Governance Statement and the Annual Governance Report.

The Protocol on relations between Members and Officers

4. The Protocol deals with relationships between members and officers. The first Protocol was approved and adopted by the Authority in 2010 and then reviewed and updated in March 2015.

5. There are no particular areas of concern to highlight within the Protocol and there have been no legislative changes or policy changes within the Authority that would impact on the Protocol. A "light touch review" has therefore been conducted.

6. Proposed changes to the Protocol are highlighted and include a new section which sets out what members and officers can expect from each other. The sections of the Protocol dealing with disclosure of information have been distinguished under a new heading from those sections dealing with access to information and other documents. A new section has been inserted to cross reference the Confidential Reporting Policy. Finally, a new section has been added at the end of the Protocol to clarify where responsibility for the Protocol rests.

Conclusion

7. Standards Committee is requested to consider and approve the Protocol for adoption by the Authority on 31 March 2020.

Clare Burrows
Solicitor / Monitoring Officer

8 January 2020
Background documents: None

Appendix A

YORKSHIRE DALES
National Park Authority

Protocol on relations between Members and Officers

1. Introduction

1.1. The aim of this protocol is to promote and encourage positive and effective co-operation between Members and officers, and thus maximise the Authority's effectiveness in delivering its statutory purposes and its services. The Authority has adopted core values which underpin the way in which it delivers its statutory purposes and its mission. By establishing ground rules, this protocol will promote trust, openness and fairness, and secure compliance with the law and the codes of conduct that apply to Members and to officers.

1.2. Members and officers have separate roles, and these should be complementary, thus fostering positive working relationships, to the benefit of the Authority, the National Park, and the people who live in, work in, or visit the area. The Authority has developed a strong culture of Members and officers working together, and this protocol should support the continuance of that, as well as highlighting procedures for dealing with any concerns that may arise from time to time.

2. Expectations

2.1 Members can expect from officers:

- A commitment to the Authority as a whole and not just to a part of it
- Respect and courtesy
- The highest standards of integrity
- 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 or preference
- 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 the positions they hold
- Awareness and sensitivity to the political environment
- Training and development in order to carry out their role effectively
- Appropriate confidentiality
- That they will not use their personal relationships 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 the Authority
- Compliance with the Employee Code of Conduct at all times

2.2 Officers can expect from Members:

- Respect and courtesy
- The highest standards of integrity
- A working partnership
- An understanding of and support for respective roles, workloads and pressures

- Leadership
- Not to be subject to bullying, harassment or intimidation. In making a request, Members should have regard to the seniority and experience of officers.
- That Members will not use their position or relationship with officers to seek to advance their personal interests or those of others or to influence decisions improperly
- Compliance with the Members Code of Conduct and associated protocols at all times

3. The roles of Members

3.1. The essential roles of Authority Members, exercised collectively, are the formulation of Authority policy, priorities and objectives; taking decisions on specific issues such as planning applications and spending proposals; reviewing, monitoring and ensuring the performance of the Authority in relation to the achievement of its policies and objectives; exercising effective stewardship over the Authority's assets; and setting the framework within which officers operate (Financial Regulations, Delegation Scheme etc.). Conversely, Members should not dictate the detailed implementation of policies and decisions, or to become involved in the management and direction of the Authority's staff.

3.2. Members are at the core of the Authority's governance arrangements, and all Members necessarily represent the Authority. Some Members are appointed to represent the Authority on Partnerships, which may be local, regional or national. Members undertaking such a representative role are expected to present and support Authority policy. Officer support and briefings are available to assist Members in doing so. It is also important that Members who represent the Authority on Partnerships or other bodies provide feedback to officers and to the Authority.

3.3. Members have an entitlement to receive informed professional advice from officers, and may ask for this individually, collectively or in meetings of the Authority and its Committees. The Authority has agreed a statement of what information Members are entitled to expect in relation to their decision-taking role, but Members should be proactive in asking for information and advice if they feel they need it.

3.4. Members have an advocacy and representational role, to bring the views and interests of communities and interest groups into the Authority, to inform policy and decision making. This role is more fully described in the Duties and Responsibilities of Members contained in Section H of the Members' Handbook. Members are also key advocates, and ambassadors, for the Authority and for the National Park, both within the area and more widely.

3.5. Although many Members perform special roles within the Authority (as Chairmen, Deputy Chairman, Champions, Working Group members etc.) all Authority Members have equal status. Whilst different Members may have different rights and needs depending on their roles, all Members have equal rights to participate in policy formulation and decisions, and an equal right to respect.

4. The roles of Officers

4.1. The essential roles of officers of the Authority, with regard to Members, are to give professional advice to Members in order to assist them in taking decisions; and then to carry out the actions necessary to give effect to all lawful decisions taken by Members. Since Members can only take decisions collectively, officers are not obliged to give effect to instructions from a single Member, or a number of Members, acting otherwise than under the Authority's Scheme of Delegation and decision making procedures. If an officer receives such an instruction, they should explain to the Member how such a decision should be reached through proper process and, if requested, should assist Members to go through that process.

4.2. Officers serve and are accountable to the Authority as a whole. Their job is to give advice to Members and to carry out the Authority's work under the direction of the Authority. They may only take action on behalf of the Authority in order to give effect to a decision taken by Members, or in the exercise of delegated powers given to them by Members (as set out in the Scheme of Delegation).

4.3. Since the implementation of decisions is a matter for officers, letters which create legally enforceable obligations or which give instructions on behalf of the Authority should always be sent in the name of an officer.

4.4. Officers work to the instructions of their line managers, not individual Members. Officers cannot take action to give effect to objectives put forward by Members until they have been properly approved. It follows that, whilst officers should always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given. Except when the purpose of an enquiry is purely to seek factual information, Members should normally direct their requests and concerns to a senior officer, at least in the first instance.

4.5. Under the direction and control of the Authority and its Committees, officers manage and provide the Authority's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.

4.6. Officers must be alert to issues which are, or are likely to be, contentious or sensitive, and be aware of the implications for Members, the media or other sections of the public. This protocol explains the need for Members to be kept informed, as appropriate, in relation to such issues (see paragraph 10.1 below).

4.7. The Chief Executive, the Treasurer (Section 151 Officer) and the Monitoring Officer submit reports to meetings of the Authority and its Committees, or authorise other Officers to do so, or arrange for the presentation of professional advice prior to any decision being taken by or on behalf of the Authority. It is essential that Members receive and consider such advice, even if they ultimately disagree with it, as in the event of a legal challenge to the decision this will help establish that all relevant issues were considered when the decision was made.

5. Principles governing Member / Officer relationships

5.1. Members and officers must always respect the roles and duties of each other, by observing reasonable standards of courtesy, and by not seeking to take unfair advantage of their position.

5.2. Mutual trust and respect between employees of the Authority and Members is essential to good governance. The key elements in building mutual trust are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.

5.3. The mutual trust and confidence required in relationships between all Members and all officers is particularly vital in the relationship between the Chairman of the Authority and the Chief Executive. All Members and officers should support the maintenance of such a relationship, recognising that it is vital to the Authority's effectiveness.

5.4. Officers are required by their code of conduct to deal with the public, Members and other officers sympathetically, efficiently and without bias. Working relationships between Members and officers should be kept on a professional basis. For the avoidance of doubt, social interaction between officers and Members is not proscribed, but any personal relationship (e.g. family or friendship) should be conducted in such a way as to completely separate that relationship from the officer's and Member's work for the Authority.

5.5. It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships, to avoid any reason for suspicion and any appearance of improper conduct. Where there is a personal relationship, those concerned should avoid a situation where personal feelings could be perceived as affecting the Authority's affairs and such a Member should not participate in any decision which directly affects the officer on a personal basis.

5.6. Members are obliged by the Code of Conduct to treat others with courtesy. Criticism of ideas and opinion is part of legitimate debate, and ideas and policies may be robustly criticised but Members and officers should at all times avoid personal attacks or abuse, and ensure that any criticism or concern is well founded, constructive, and raised through appropriate channels. Members can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. Members can often contribute ideas and suggestions which will be helpful to officers, but they must not try and force officers to write reports in a particular way, or with particular recommendations.

5.7. There is a specific provision in their Code of Conduct which says that Members must not intimidate or attempt to intimidate any person. This can be contrasted with the legitimate points which a Member can make in challenging policy or scrutinising performance. An example of this would be asking officers to explain the rationale for professional opinions they have put forward. Members are entitled to challenge officers as to why they hold their views.

5.8. Members should always respect the right of officers to give advice, and should take it into account when setting policy or taking decisions. Any decision taken on behalf of the Authority may be susceptible to successful legal challenge if all relevant matters have not been taken into account; and professional advice from officers (or external experts who have been asked to advise the Authority) will always be relevant; and though it does not have to be followed if there are good reasons not to do so, it does always have to be considered.

5.9. If an officer has misgivings about the wisdom or propriety of a decision, or if professional advice is disregarded, it is not appropriate for the officer to refuse to

give effect to that decision, unless new information has come forward since the decision was taken, in which case the officer concerned should raise concerns with their Line Manager or the Chief Executive or unless the matter is to be the subject of a Monitoring Officer report which has yet to be considered. However, if an officer believes that a decision is actually unlawful, then he/she should seek legal advice from the Solicitor to the Authority. Officers are obliged not to take action to implement decisions which are manifestly unlawful.

6. The Authority and Committee Chairmen and Officers

6.1. The Authority Chairman has an important liaison role between Members and officers, ensuring that feedback is clear and open in both directions, and that political pitfalls are avoided by officers.

6.2. Officers must respect the position of the Authority Chairman, and provide appropriate support to enable the Chairman to function effectively both in Authority meetings, and in representing the Authority.

6.3. The lead officer for each Committee should ensure that the Chairman of the Committee is kept informed of matters relevant to the Committee's business, and is provided with appropriate support to enable the Chairman to function effectively in chairing meetings of the Committee.

6.4. A Chairman has no legal power to take decisions on behalf of the Authority, neither should he/she apply inappropriate pressure on the officer. At some Authority or Committee meetings, a resolution may be passed which authorises a named officer to take action in consultation with the Chairman. In these circumstances it is the officer, not the Chairman, who takes the action and is responsible for it. If the Chairman and the officer disagree over the decision, the officer will often wish to refer the decision back to Members collectively.

7. Member Champions and Officers

7.1. Officers are expected to consult the appropriate Member Champion regularly, but particularly on difficult or sensitive issues. This consultation with Member Champions is in addition to, not instead of, existing formal consultation arrangements with Members.

7.2. Member Champions have no legal power individually or collectively to direct or issue instructions to officers. However they act as a 'sounding board' for officers regarding the discussion of new ideas and initiatives. They are expected to bring a 'Member perspective' to these discussions.

8. Access to documents and other information

8.1. Members do not have a right of access to all documents and information in the possession of the Authority, but they do have a right to all such information which they need to know in order to carry out their responsibilities as a Member.

8.2. Members may request senior officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as Members. This may range from general information about some aspect of the Authority's services to specific information on behalf of a member of the public. Where information is requested on behalf of a third party, the Member

must make this clear, and the information will only be provided if it is in the public domain, and provision of it is consistent with the law on data protection and is in accordance with rights of access to that information under the Freedom of Information Act 2000.

9. Disclosure of information

9.1. Where a Member is given information which is confidential, or "exempt information" (e.g. Committee reports printed on pink paper), the Member should not disclose that information outside of the Authority. However if information is already in the public domain from some other legitimate source, then the Member is at liberty to discuss it publicly and if in any doubt , either generally or in particular as to whether information is already legitimately in the public domain then Members should discuss the position with the Monitoring Officer or the Chief Executive.

9.2. Members with concerns about information which is confidential should refer to the Code of Conduct, and to the Authority's Confidential Reporting Policy, which makes clear that confidential information should not be disclosed without the consent of the person authorised to give it unless the Member is required by law to do so. Members should not take matters into their own hands otherwise than in accordance with those documents and, if in any doubt, should discuss the position with the Monitoring Officer.

9.3. Members should not use information which they have obtained as an Authority Member for private purposes, or they risk being in breach of the Code of Conduct provision which prohibits Members from using their position improperly to secure an advantage or disadvantage for themselves or some other person.

10. Keeping each other informed

10.1. Officers must consider the need to inform relevant Member(s) of matters relating to Authority business, which are likely to be sensitive or contentious or of particular interest to a Member including decisions taken by Committees on which the relevant Member does not serve.

10.2. Where Members become aware of information which is relevant to the Authority or its business, they should bring that information to the attention of the relevant officer.

10.3. Any correspondence between one or more Members and one or more officers which is marked "confidential" should not be disclosed by the recipient to any third party without the consent of the sender (this does not apply to officers copying correspondence to other officers in order to help formulate a reply).

11. Dealing with the media

11.1. All communications with the media must be conducted in accordance with the Authority's Corporate Media Procedure and Protocol contained in Section I of the Members' Handbook, and the law on local authority publicity.

12. Mechanisms for dealing with concerns

12.1. Where a Member or an officer has a concern about behaviour covered by this protocol, this is often best resolved informally. Members and officers should both be open to approaches that seek informal resolution, for example by clarifying a possible misunderstanding, or allowing an apology for a genuine mistake.

12.2. If a Member has occasion to have concern about the conduct or capability of an officer, that concern should be raised privately with the appropriate Director (if the Member feels it is more appropriate, or if the concern relates to a Director, the Member should raise the matter with the Chief Executive). If the Director / Chief Executive believe that the concern is justified, it should then be dealt with under the disciplinary or capability procedure, as appropriate. Action under such procedures is the exclusive preserve of the Chief Executive, as Head of the Authority's Paid Service, though the Chief Executive may delegate this responsibility in particular cases.

12.3. If an officer has occasion to have concern about the conduct of a Member, that concern should be raised privately with the officer's line manager, who may discuss the matter with the Chief Executive or Monitoring Officer. Where possible, such concerns should then be addressed by direct discussion with the Member concerned. If this is not appropriate, or does not resolve the matter, the issue may be raised with the Authority Chairman, who may decide to discuss the matter with the Member concerned. Although informal resolution is possible, and usually preferable, Officers have the right to make a formal complaint to the Standards Committee if they believe that a Member has breached the Code of Conduct.

12.4. Members and officers may also raise issues under the Confidential Reporting Policy where there is no other more appropriate avenue for addressing a serious concern.

12.5. Any issue which arises as to the right of a Member to have access to information held by the Authority shall be determined by the Monitoring Officer, in accordance with the Member's legal rights and entitlements.

13. Responsibility for the Protocol

13.1 The Monitoring Officer has overall responsibility for this Protocol and will review its operation in accordance with the Authority's policy review timetable or sooner where appropriate.

CORE VALUES

1. Improvement
   We will continually strive to improve our performance in delivering National Park purposes and welcome feedback to help us do this.

2. Accountability
   We will explain and take responsibility for our decisions and actions.

3. Commitment
   We will do what we say we will do.

4. Integrity
   Our relationships with the public, partners and each other are built on honesty, transparency, equality, impartiality and consistency. We welcome and respect diversity and demonstrate equality in working relationships.

5. Involvement
   We are open and approachable, and are proactive in encouraging wider and diverse participation in achieving our statutory purposes.

6. Valuing People
   We value the people who work for us and will ensure that they are equipped and empowered to provide professional services to the public.

This Protocol was approved by the Standards Committee on 4 February 2020 and by the National Park Authority on 31 March 2020. It is due for review in March 2025.