

## CAIRNGORMS NATIONAL PARK AUTHORITY

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**Title: MEMBERS' CODE OF CONDUCT**

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### **Purpose**

This paper seeks Members' agreement to formally adopting the Model Code of Conduct as the CNPA's code of conduct.

### **Recommendations**

- That the Model Code of Conduct is accepted unchanged as the CNPA's Code of Conduct, and that a submission to Scottish Ministers is made to this effect by the deadline of 1 December 2003;
- That Members consider whether there are specific areas on which they would like further guidance and/or training;
- That the CNPA has a continuing programme of training and discussion about the issues surrounding Membership of a public body, in order to ensure that the CNPA is an organisation that commands trust and respect of the public.

### **Executive Summary**

The Ethical Standards in Public Life (Scotland) Act 2000 requires Scottish Ministers to issue a Code of Conduct for Councillors and a Model Code of Conduct for Members of devolved public bodies. The Model Code of Conduct for Members was approved by Parliament in December 2001 – all members of the CNPA received this on 3 April at the first informal gathering of the Board. The Board is required to agree its own Code of Conduct by 1 December this year, and this is expected to be based closely on the Model Code. This paper recommends accepting the Model code unchanged. The next step is to submit the CNPA's Code of Conduct to Scottish Ministers for approval; they will then set a date for its coming into force.

The Act also requires a register of Members' interests to be held, and for there to be a "proper officer" who has responsibility for the register. These arrangements are already largely in place in the CNPA.

## MEMBERS' CODE OF CONDUCT

### Background

1. The Ethical Standards in Public Life (Scotland) Act 2000 introduced a new ethical framework to Scotland, key elements of which are statutory codes of conduct and the Standards Commission for Scotland. The Act requires Scottish Ministers to issue a model Code of Conduct for members of devolved public bodies. Each public body covered by the legislation (and this includes the CNPA) must agree a draft Code of Conduct, based on this Model Code. The draft Code must be approved by Scottish Minister (advised by the Standards Commission). It then becomes the Code of Conduct for the CNPA. The deadline for submission of a draft Code by the CNPA is 1 December this year.
2. The Standards Commission for Scotland is responsible for enforcement of the Code. It also issues guidance to assist Members in observing the Code. They issued general guidance which has only just been made available to us – this is attached at Annex 1. CNPA members will have seen the specific guidance (in the information update issued on 12 September) which we sought from the Commission on potential conflicts of interest for members with farming interests.
3. In respect of guidance, you are invited to consider whether there are particular areas on which you would welcome further guidance/discussion, training. Please note that the guidance from the Scottish Executive, “On Board” was given to all members when they joined the CNPA, and provides useful guidance on the role of board members, and is a useful complement to the Standards Commission advice on ethical standards and conduct.
4. The Ethical Standards Act also requires that each public body prepare and keep available for public inspection a register of Members' interests. In connection with this, there is required to be a proper officer with responsibility for the register. The Ethical Standards legislation does not require this to be in place until Ministers have approved the CNPA's Code of Conduct. However, these arrangements are already largely in place for the CNPA (partly as a result of the requirements of the National Parks' governing legislation). You are reminded to submit a list of your registerable interests (in accordance with section 4 of the Model Code) if you have not done so already.

### The Model Code of Conduct for Members

5. The model Code of Conduct for Board Members is attached at Annex 2. The principles which underpin the Code are set out in section 2, and are summarised as:
  - Public service
  - Selflessness
  - Integrity
  - Objectivity
  - Accountability and Stewardship
  - Openness
  - Honesty

- Leadership
- Respect

*You should apply these principles to all your actions as a CNPA Board Member.*

6. The guidance “On Board” which was given to all Board Members when they joined the CNPA Board, and the bespoke NDPB course attended by Members on 27 June, both help to amplify the expectations on members of public bodies in terms of how they conduct themselves.
7. I do not consider that the Model Code contains any provisions inappropriate to the CNPA. Nor do I feel there are provisions which need to be added. I therefore recommend (subject to one caveat set out below) that the Model Code is adopted unchanged. This is in keeping with the Scottish Executive’s expectation that the Codes of public bodies will not deviate markedly from the Model Code.
8. The National Parks (Scotland) Act 2000 contains a provision in Schedule 1 paragraph 18 about declaration of Members’ interests. This was based on previous local government legislation. At first reading it appears to be more demanding than the provisions in section 5 of the Model Code. The Act says that if a Member is “in any way directly or indirectly interested in a matter [under consideration by the CNPA] they must disclose the nature of the interest, and not take part in any further deliberation by the CNPA”.
9. The Model Code (section 5.1-5.4) helpfully describes the context in which the rules on declaration of interest are to be seen, and goes on to say that if you can declare an interest in respect of a matter being discussed by the Board, but if you consider the interest to be relatively insignificant, you may continue to attend the meeting and take part in discussion.
10. On the basis that the Code post-dates the National Parks (Scotland) Act, and will (when approved by Scottish Ministers and the Standards Commission) be the most recent statutory guidance on the interpretation of what is meant by “interests” and their declaration, it is proposed that the CNPA Board adopts the Model Code and abides by its provisions. The Scottish Executive are aware of the potential anomaly, and are considering whether further guidance is necessary.

## **Code of Conduct for Councillors**

11. There is a Code of Conduct for Councillors, also issued under the Ethical Standards (Scotland) Act, which applies to the activities of Councillors in their capacity as Councillors. The Councillors’ Code is very similar in principle to that for Board Members. However, because of the possibility of conflicts of interest for Councillors who are also Members of Boards of other public bodies, a dispensations note was issued on 1 April 2003, which gave a general dispensation for Councillors who are nominated or appointed as members of other bodies to allow them to participate in Council business dealing with matters relating to those other bodies. In addition to the general dispensations, individual councillors may apply for specific dispensations

to allow them to take part in discussion on a matter where, in terms of the Councillors Code, they might otherwise be prohibited from taking part.

12. These are matters for Councillor CNPA members to take up with their Council legal adviser. They are mentioned here for completeness.

## **Conclusion and Overview**

13. *You should note that responsibility for upholding the requirements of the Ethical Standards (Scotland) Act and the Code rests with individuals*, and Members should be familiar with the provisions of both. If you have any queries please ask the Convener or the (Interim) Chief Executive – if necessary we can seek further advice from the Standards Commission.
14. It is very difficult to be prescriptive about the issues surrounding the conduct of people appointed/elected to posts in public life. The Code of Conduct, once adopted, will be the “bible” for the CNPA, but ultimately every case has to be treated on its merits and judgements made on the basis of common sense, the principles which underpin the Code of Conduct (section 2), and reasonable public perception.
15. It will be important for the CNPA to maintain the confidence and trust of the public – the organisation therefore should commit to a continual programme of discussion and training on issues surrounding conduct of Board Members and conduct of Board business.

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