
CAIRNGORMS NATIONAL PARK AUTHORITY

FOR DECISION

Title: CODE OF CONDUCT

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Purpose

This paper presents the revised Model Code of Conduct issued by the Standards Commissions for Scotland for Non-Departmental Public Bodies (NDPBs), together with updated guidance accompanying the Model Code.

The paper seeks the Board's agreement to adopt the revised Model Code as the Code of Conduct for the Cairngorms National Park Authority.

Recommendations

The Board is asked to:

- a) **Approve the adoption of the revised Model Code of Conduct for Non-Departmental Public Bodies in full and without amendment as the Cairngorms NPAs Code of Conduct.**

Strategic Context

1. The revised Model Code of Conduct for Non-Departmental Public Bodies (NDPBs) was approved by Scottish Parliament on 7 December 2021. Members have previously been made aware of and received copies of the revised Model Code and accompanying updated guidance issued by the Standards Commission for Scotland (“the Commission”). For ease of reference in handling this item of board business, the revised Model Code is provided in full again as Annex 1 to this paper and the accompanying guidance document as Annex 2.
2. Scottish Government’s expectation is that NDPB’s will adopt the revised Model Code within six months of its approval by Parliament.

Significant Changes in the revised Model Code

3. A presentation developed by the Commission setting out the significant changes to the Code is available at: [Standard Presentations & Training | The Standards Commission for Scotland \(standardscommissionscotland.org.uk\)](https://standardscommissionscotland.org.uk).
4. In reviewing the revised Model Code and supporting Guidance the following significant changes to presentation and content of the Model Code appear worthy of highlighting:
 - a. Different language style used throughout of “my” and “I” intended to reinforce to the board member their individual responsibility in adhering to the Code.
 - b. Paragraph 1.5 of the Code brings in a specific, explicit provision of when the Code is deemed to apply under a new heading of “My Responsibilities”. “I will comply with the substantive provisions of this Code, being sections 3 to 6 inclusive, in ALL situations and at ALL times when I am acting as a board member of my public body, have referred to myself as a board member or could objectively be considered to be acting as a board member.” [Emphasis added] This represents a significant update to the Code in terms of when the Code applies. Paragraphs 7 to 12 of the guidance document helps to explain this new provision of the Code.
 - c. The application of the Code to various social media situations is very well supported in explanation and example throughout the guidance document. The Code itself does not go into detail with regard to separation of “physical” face to face activity and social media activity, with the guidance reinforcing that members may be objectively considered to be acting as a board member in either of these circumstances. The guidance document makes clear that interactions through social media can impact adherence with the code in a variety of ways.
 - d. The revision to section 2 and paragraphs 2.1 and 2.2 now much more clearly set out the interaction of the key principles of public life with the substantive provisions of the Code.

- e. Paragraph 3.7 picks up the work we have done internally last year on the Governance Responsibility Statement: “Except where it is written into my role as a board member, and / or at the invitation of the Chief Executive, I will not become involved in operational management of my public body. I acknowledge and understand that operational management is the responsibility of the Chief Executive and the Executive team”. This brings a more explicit focus on this area of understanding respective responsibilities into the Code and is reinforced at various points in the accompanying guidance.
- f. Paragraph 3.11 makes collective responsibility an explicit aspect of NDPB board membership. This was not drawn out with such focus previously. “I will respect the principle of collective decision making and corporate responsibility. This means that once the board has made a decision, I will support that decision, even if I did not agree with it or vote for it.” This is well supported and illustrated in paragraphs 57 to 59 of the guidance and the example, which makes clear this provision also applies to social media interactions.
- g. Section 5 represents a significant improvement in setting out in a stage by stage process the consideration of declarations of interest, though considering whether there is any connection with an item of business; whether there is an interest that needs a declaration and withdrawal from a meeting or part of a meeting; and whether in the interest of transparency to publicly state a connection to an item of business which does not amount to an interest. This is also very thoroughly supported in the guidance document in paragraphs 130 to 164.

Strategic Policy Considerations

- 5. Members are requested to consider the revised Model Code and:
 - a) Consider whether any amendments to the Model require to be made prior to adoption by Cairngorms NPA;
 - b) Consider whether any specific points of the revised Model Code require further clarification and / or specific training.
- 6. Officers have not identified any elements of the revised Model Code which require amendment.
- 7. A supplementary update issued by Scottish Government’s Public Bodies Unit has made explicit that they do not expect any deviation from the Model Code in the main body of text adopted by public bodies. Public Bodies’ revised codes should also use the same paragraph numbering as the Model Code for consistency of reference across NDPBs. The Public Bodies Unit indicate that as the Model Code has been approved by Parliament and contains legal terms of reference enforceable by the Standards Commission for Scotland (SCS) it is vitally important that revised Codes keep that consistency throughout.

8. Furthermore, Public Bodies Unit have indicated that locally generated guidance should not be inserted into the Code nor the guidance document issued by SCS.
9. As such, the recommendation to the board is for the adoption of the revised Model Code in full and without amendment. The Director of Corporate Services and Deputy Chief Executive has been involved in a number of rounds of consultation on the development of this revised Model Code and is of the opinion that it is suitable for adoption in its presented form, and indeed an improvement on the current Cairngorms NPA.
10. Should the board believe now, or at any time in the future in light of experience of application of the Code, there is a need for modification to either the Code or supporting guidance, the Director of Corporate Services and Deputy Chief Executive will coordinate development of a rationale for amendment with the board or an identified sub-committee for submission to and consideration by SCS.

Strategic Risk Management

11. There are no specific strategic risk management implications within the proposals presented to the board in this paper. Adoption of the revised Model Code should provide further enhancement to the clarity and understanding of governance and board responsibilities within Cairngorms NPA.

Next Steps

12. Following consideration by the board, we will communicate the decision to the Commission and agree an implementation date. The agreed implementation date will be communicated to all members.
13. We will arrange full training for members on the Code of Conduct. This is likely to be put in place toward the end of the calendar year to accommodate the current timetable for local authority and ministerial appointments to the board, with repeat training put in place to accommodate any changes arising from direct elections to the board in 2023.
14. In the meantime, the Director of Corporate Services and Deputy Chief Executive remains available to provide advice and support to members on compliance with the Code.

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