

**Review of Terms of Reference of Committees**  
Report by Solicitor and Monitoring Officer

**Summary:** Following a “needs attention” recommendation by Head of Internal Audit, an amendment to the Terms of Reference of Committees is proposed.

**Recommendation:** That the Broads Authority notes and adopts the amendments highlighted in the document attached.

**1 Background**

- 1.1 As part of the Internal Audit Annual for 2016/17, an audit review was undertaken of the decision-making process within the Authority. In particular, executive and non-executive decision-making in accordance with the constitution and the systems and processes in place for the preparation of reports requiring executive and non-executive decisions.
- 1.2 One of the “needs attention” recommendations was as a result of an analysis of the current terms of reference of Committees. It was concluded by the Head of Internal Audit that the terms of reference of the Financial Scrutiny and Audit Committee should reflect that it is a consultative committee.

**2 Amendments to the Terms of Reference of Committees**

- 2.1 The small amendment required is set out in the attached document at Appendix 1. at 4 (1) by the inclusion of that additional paragraph.
- 2.2 The opportunity has also been taken to incorporate the terms of reference of the Hearings Committee into the draft documents, including the wording from Standing Orders. In addition there are a number of minor amendments to reflect appropriate document name changes, as set out. The numbering of the document has also been redone, as a minor detail improvement.

**3 Conclusion and Recommendation**

- 3.1 The Authority is asked to approve the amendments highlighted in the attached document.

Author: David Harris  
Date of report: 26th June 2017  
Appendices: Draft Amended Terms of Reference of Committees

## **Broads Authority**

### **Terms of Reference of Committees**

#### **General Duty**

It is the general duty of the Authority to manage the Broads for the purposes of:

- (a) conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads;
- (b) promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public; and
- (c) protecting the interests of navigation.

In discharging its functions the Authority shall have regard to-

- (a) the national importance of the Broads as an area of natural beauty and one which affords opportunities for open-air recreation;
- (b) the desirability of protecting the natural resources of the Broads from damage; and
- (c) the needs of agriculture and forestry and the economic and social interests of those who live or work in the Broads.

#### **Powers Reserved to the Full Broads Authority**

##### **A Policy**

- (1) To set the Authority's overall policy and direction, including adopting and varying key documents such as the Broads Plan.
- (2) To adopt the Broads Local Development Scheme and **the Broads Local Plan** and approve any revisions which have policy implications.
- (3) To approve the list of annual strategic priority and key milestones.
- (4) To initiate special policy studies and investigations of particular significance to the Broads.
- (5) To approve the Authority's response to consultation papers which have strategic or policy importance for the Broads or the work of the Authority.

## **B Finance**

- (6) To appoint an officer to be responsible for the proper administration of the Authority's financial affairs in accordance with section 17 of the Norfolk and Suffolk Broads Act 1988.
- (7) To approve the annual consolidated (general and navigation income and expenditure) budget (the latter after consultation with the Navigation Committee), to fix navigation tolls (after consultation with the Navigation Committee) and to approve additional expenditure over and above that provided for in the approved budgets.
- (8) To adopt the annual Statement of Accounts.
- (9) To monitor the resources of the Authority, and to have responsibility for the following specific matters:
  - (i) making decisions about raising, varying or redeeming loans;
  - (ii) approving individual grants which are not within the scope of the powers delegated to the Chief Executive;
  - (iii) writing off any obsolete stores or equipment, loss of property or debt owing to the Authority insofar as such matters are not within the scope of the powers delegated to the Treasurer and Financial Adviser;
  - (iv) approving the Annual Investment Strategy.
- (10) To monitor projects undertaken by the Authority, with particular regard to the letting of and compliance with contracts.

## **C Navigation**

- (11) To apply for and object to Harbour Revision Orders (after consultation with the Navigation Committee).
- (12) To approve the closure of navigations for conservation purposes (except in cases of emergency, after consultation with the Navigation Committee).
- (13) To perform the role of Duty Holder under the Port Marine Safety Code, and to appoint the Designated Person.

## **D Conservation**

- (14) To make decisions about the exercise of the Authority's functions in respect of conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads in accordance with the powers and duties set out under Sections 4 and 5 the Norfolk and Suffolk Broads Act 1988.

## **E Recreation and Tourism**

- (15) To make decisions about the exercise of the Authority's functions in respect of promoting the enjoyment of the Broads by the public as set out in Schedule 3 of Part II of the Norfolk and Suffolk Broads Act 1988.

## **F Committees and Members**

- (16) To approve the setting up of any standing committees.
- (17) To approve the terms of reference of all committees.
- (18) To appoint members to any standing committee of the Authority (subject, in respect of the Navigation Committee, to prior consultation with that committee).
- (19) To appoint members to outside bodies where this function does not stand referred to another committee.
- (20) To approve the annual timetable of Authority and committee meetings.
- (21) To approve the Code of Conduct for Members.
- (22) To appoint the Authority's Monitoring Officer.
- (23) To consider and if necessary act on recommendations from the Hearings Committee in respect of matters relating to complaints of non-compliance with the Authority's Code of Conduct.
- (24) To set members allowances.
- (25) To make Standing Orders in relation to the business of the Authority.

## **G Personnel Matters**

- (26) To determine the grading, salary and terms and conditions of service of the Chief Executive.
- (27) To make arrangements for and approve the appointment of the Chief Executive.

- (28) To adopt amendments to local conditions of service where there are unresolved objections from members of staff and/or trade unions.
- (29) To determine any ex-gratia payments or honoraria to staff which are not within the scope of the powers delegated to the Financial Scrutiny and Audit Committee.

## **H General**

- (30) To make byelaws (after consultation with the Navigation Committee in the case of byelaws relating to the navigation area).
- (31) To make proposals for:
  - (i) the variation of the area of the Authority;
  - (ii) the variation of the navigation area (after consultation with the Navigation Committee); and
  - (iii) the alteration of the Authority's constitution.
- (32) To promote and oppose local Bills.
- (33) To exercise Compulsory Purchase Powers.
- (34) To take decisions:
  - (i) to exercise powers not hitherto exercised by the Authority;
  - (ii) to cease to exercise any power of the Authority;
  - (iii) involving the exercise of any powers of the Authority by any body other than the Authority or the Committee of the Authority to which those powers then stand delegated; and
  - (iv) involving the endowment of the Authority with powers not hitherto held by it.

### **Powers Reserved to Committees: General Clauses**

- (1) Any mention in the following terms of reference and delegations of any Act or statutory instrument or of any section or clause shall be deemed to refer to the same as at any time amended. Where that Act, instrument, section or clause has been replaced, consolidated or re-enacted, with or without amendment, such mention shall be deemed to refer to the relevant provisions of the replacing, consolidating or re-enacting statute or instrument.

- (2) References to powers and duties under any Act include powers and duties under any statutory instrument made under that Act.
- (3) No general reference of a power, duty, function or other matter to a committee shall include any matters specifically referred to another committee.
- (4) It is a condition of all delegations to all committees that they must report all important steps taken by them in exercise of their delegated powers to the extent necessary to ensure that all members of the Authority are broadly aware of the progress and the problems of the Authority in every sphere.
- (5) All delegated powers must be exercised in accordance with the approved Business Plan and budgets and the Standing Orders and Financial Regulations of the Authority.

## **1 Navigation Committee**

### **Matters Arising from the 1988 Act (as amended by the 2009 Act)**

- (1) To be consulted on:
  - (i) proposals to vary the navigation area (section 8(4) and the area of jurisdiction of the Authority (schedule 7 paragraph 5);
  - (ii) all the matters listed in section 9 (6) namely:
    - (a) before delegating any function of the Authority in relation to the navigation area to any person;
    - (b) before appointing any member of the Navigation Committee under this section;
    - (c) before proposing, determining or bringing into force any new policy, plan, strategy or procedure or any change to an existing policy, plan, strategy or procedure which may significantly affect the use or enjoyment of the whole or any part of the navigation area;
    - (d) before determining any application for planning permission which may significantly affect the use or enjoyment of the whole or any part of the navigation area and which materially conflicts with any policy, plan, strategy or procedure of the Authority;
    - (e) on the preparation of the annual budget, including in particular any income or expenditure attributable to the navigation area;
    - (f) (except in case of urgency) before incurring expenditure which may have a significant effect on the use or enjoyment of the whole or any part of the navigation area and which has not been specifically provided for in the annual budget approved by the Authority;
    - (g) before applying for any amendment of or alteration to the Navigation Committee's constitution as set out in this

section or the Authority's constitutions as set out in section 1 of this Act or any change to the functions of the Authority in relation to the navigation area as set out in Part II of and Schedule 5 to this Act and under Parts 2 and 3 of the 2009 Act.

- (iii) making, varying or revoking any byelaws under subsection 10(3) (see section 10(17) (a));
- (iv) making any appointment under subsection 10(7) (see section 10(17)(b));
- (v) determining any application for a works licence (see section 11 (13)).
- (vi) determining the level of any tolls or other charges to be imposed in respect of the navigation area or adjacent waters. (see section 13 (3)).
- (vii) The exercise of the powers under Part I of Schedule 5 (as required by paragraph 16 of Schedule 5). These functions are:
  - (a) Maintenance and improvement;
  - (b) Dredging;
  - (c) Communication with vessels ;
  - (d) Byelaws;
  - (e) Supplementary provisions in relation to byelaws;
  - (f) Contravention of byelaws
  - (g) Information as to navigation by pleasure craft;
  - (h) Temporary closure of waterways;
  - (i) Repair of landing places etc;
  - (j) Removal of wrecks etc;
  - (k) Nature conservation.
- (viii) The exercise of the powers under Part III of Schedule 5 (as required by paragraph 16 of Schedule 5) concerning New rights of navigation (see paragraph 23 of Schedule 5).

### **Broads Authority Act 2009**

- (2) To be consulted on:
  - (i) any proposal to give, amend or revoke a general direction (see sections 4 and 5 and schedule 1);
  - (ii) designating under section 14 any category of small unpowered vessels (see section 16(5)).

- (iii) designating, amending or revoking any part of the navigation area as a zone where waterskiing or wake boarding is to be permitted (see section 26(5)).

#### **Other**

- (3) To be consulted on:
  - (i) applications for harbour revision orders.

#### **Matters Arising from the Legal Agreements with National Boating Bodies in respect of the Broads Authority Act 2009**

(Note that these overlap the provisions listed above)

- (4) To be consulted on:
  - (i) implementation of the provisions in the 2009 Act;
  - (ii) information to be included on the application forms for registration and payment of tolls;
  - (iii) introduction of the Boat Safety Standards;
  - (iv) inspection procedure for vessels;
  - (v) removal of vessels procedures;
  - (vi) request for information procedure (including visiting craft);
  - (vii) hire boat licensing conditions;
  - (viii) policy for the temporary closure of waterways for recreational purposes.
- (5) To agree changes to the exemptions in respect of Boat Safety Standards as set out in section 16(6). (NB: This provision in the Agreement was intended to prevent the removal of any of the exemptions, which the 2009 Act now secures. However, the wording of the Agreement means that the Committee's agreement is required to add to the exemptions in section 16(6).
- (6) To agree exemptions from the need for compulsory insurance for small unpowered craft (see also section 16(5)).
- (7) To agree the format of financial reporting on navigation matters.

(Note: The requirement to consult under the legal Agreements extends to changes to anything previously agreed by the Authority following consultation).

## **2 Planning Committee**

In accordance with the Code of Practice for Members of the Planning Committee and Officers:



- (1) To make recommendations to the Broads Authority on plan making functions with the objective of contributing to the achievement of sustainable development.
- (2) To prepare a statement of community involvement for the preparation and revision of **the Broads Local Plan** and for the exercise of the Authority's functions in relation to development control.
- (3) To make recommendations to the Authority on the preparation and maintenance of the Local Development Scheme and on the contents of the **Broads Local Plan**.
- (4) To respond to consultations from Government and other agencies and organisations in respect of any matter for which powers are delegated to this Committee.
- (5) To keep under review matters which are likely to affect the development of the area or the planning of its development including relevant matters in any neighbouring area and make representations accordingly.
- (6) In accordance with the policies and any directions of the Authority, to exercise the powers and duties of the Authority relating to:
  - (i) development control, including the determination of planning applications, enforcement, revocation, modification and discontinuance orders, completion notices and Section 106 Agreements;
  - (ii) buildings of architectural and historic interest and town schemes (including their grant aid);
  - (iii) conservation areas;
  - (iv) ancient monuments;
  - (v) trees;
  - (vi) derelict and waste land;
  - (vii) advertisements;
  - (viii) the stopping up and diversion of public paths affected by development proposals and the downgrading of highways for amenity purposes;
  - (ix) hazardous substances;
  - (x) certificates of appropriate alternative development;

- (xi) litter, abandoned motor vehicles and rubbish;
  - (xii) goods vehicles operator's licences;
  - (xiii) conservation of buildings and vessels, etc., under paragraph 42 of Schedule 3 to the Norfolk and Suffolk Broads Act 1988;
  - (xiv) spatial plans;
  - (xv) determining whether approval be given for the exercise of permitted development rights within a European Site, following consultation with Natural England, under the terms of the Conservation (Natural Habitats Etc) Regulations 1994.
- (7) To agree with an adjoining planning authority that individual cross-border planning applications be wholly determined by either the Authority or the relevant Council.
  - (8) To consider and confirm Neighbourhood Area Plans and the designation of "neighbourhood areas" and to make recommendations to the Authority for their adoption.

### **3 Hearings Committee**

- (1) The function of the Committee is to hear and determine allegations of breaches of the Members Code of Conduct referred to it by the Monitoring Officer and in conducting hearings the Committee shall follow procedures prescribed by the Monitoring Officer.
- (2) The Hearings Committee shall be convened by the Monitoring Officer when required under the Members' Code of Conduct and this shall include one of the Authority's Independent Persons (as a non-voting co-opted member) and three other members from five nominated by the Authority at its annual meeting which will include the Chairman of the Financial Scrutiny and Audit Committee. The Independent Person shall not Chair the Committee.
- (3) The Hearings Committee shall make such recommendations to the Broads Authority as appear to it appropriate following the determination of any Code of Conduct complaints, including recommendations in relation to sanctions under the Code of Conduct.

### **4 Financial Scrutiny and Audit Committee**

- (1) The Financial Scrutiny and Audit Committee is a consultative non-decision making committee appointed by the Broads Authority and which shall have the following functions.

## **Financial Scrutiny**

- (2) To review and recommend the Annual Statement of Accounts to the Authority for approval, to ensure that appropriate accounting policies have been followed and to consider whether there are any specific concerns which need to be brought to the attention of the full Authority.
- (3) To review and recommend the Annual Governance Statement to the Authority for approval, and to consider whether there are any specific concerns which need to be brought to the attention of the full Authority.
- (4) To approve the Authority's Financial Regulations, Standing Orders relating to Contracts and counter fraud, corruption and bribery arrangements.

## **Financial Planning**

- (5) To monitor and oversee the Authority's medium term financial planning, including the annual Business Plan, and to bring to the attention of the full Authority any specific issues or concerns.

## **Audit**

- (6) To oversee the scope and depth of internal and external audit work and ensure it is appropriate and provides value for money.
- (7) To consider the external auditor's Annual Audit Letter, and any other reports to the Authority and those charged with its governance.
- (8) To receive and consider the Head of Internal Audit's Annual Written Report and Opinion.
- (9) To consider Internal Audit's Terms of Reference, Code of Ethics and Strategy, together with the 5 year Strategic Internal Audit Plan and Annual Internal Audit Plan.
- (10) To consider specific reports from external and internal auditors.
- (11) To consider any reports from internal audit on agreed recommendations not implemented within a reasonable timescale.
- (12) To receive regular updates on progress in implementing the recommendations of external and internal auditors.
- (13) To monitor the performance of the providers of the internal audit service, and advise on whether effective systems of internal control are in operation.

## **Risk Management**

- (14) To monitor the effective development and operation of risk management, and review the Authority's Strategic Risk Register.

## **Other**

- (15) To determine any payments or honoraria to staff which are not within the scope of the powers delegated to the Chief Executive up to a maximum of £50,000 per event.
- (16) To consider any matters referred to the Committee by the Broads Authority or the Chief Executive which are appropriate to its Terms of Reference.

Originally adopted by Broads Authority: 21 November 2014

**Revisions *to be adopted* by Authority on 28 July 2017**

**Next review date: July 2020**

## **BROADS AUTHORITY**

### **Broads Local Access Forum**

#### **Terms of Reference**

- 1 The Broads Local Access Forum will have the following terms of reference:
  - (i) To be a statutory advisory body to provide guidance and advice to relevant authorities on the improvement of public access to the countryside of the Broads Executive Area and to contribute to opportunities for the enjoyment of the area.
  - (ii) To comment on draft maps of open countryside and registered common land for the Broads as will be produced by the Countryside Agency.
  - (iii) To provide a consultative forum for and advising on issues relating to access land, exclusions, restrictions and the appointment of access wardens on land where new rights of access exist.
  - (iv) To contribute (in an advisory capacity) to the development of Rights of Way Improvement Plans which cover any part of the Broads Executive Area, together with any other strategies or plans relating to rights of way and open access.
  - (v) To advise on all other aspects of improvement of public access to land in the Broads for the purposes of open air-recreation.
  - (vi) To advise on issues relating to public access to water.
  - (vii) To advise on the promotion and appropriate use of opportunities for all types of user to enjoy access to the countryside.
  - (viii) To promote closer liaison and understanding between the various interest bodies and organisations which have an interest in access to the Broads and its wider catchment area.
- 2 In providing advice, the Forum will have regard to:
  - (i) the needs of land management;
  - (ii) the conservation of the natural beauty of the area;

- (iii) the management and maintenance of recreational access whilst balancing this against the needs of nature conservation, agriculture, the interests of landowners and managers, navigation and countryside management projects within the Broads;
  - (iv) the general duty of the Authority to manage the Broads for the purposes of:
    - (a) conserving and enhancing the natural beauty, wildlife and cultural heritage of the Broads;
    - (b) promoting opportunities for the understanding and enjoyment of the special qualities of the Broads by the public; and
    - (c) protecting the interests of navigation.
- 3 In providing such advice and comment the Forum shall also bear in mind the Authority's requirement to have regard to:
  - (i) the national importance of the Broads as an area of natural beauty and one which affords opportunities for open-air recreation;
  - (ii) the desirability of protecting the natural resources of the Broads from damage; and
  - (iii) the needs of agriculture and forestry and the economic and social interest of those who live or work in the Broads.