

Governance of National Park Authorities and the Broads Authority
Report by Chief Executive

Summary: The Government has published its response to the consultation on the governance of national park authorities (NPAs) and the Broads Authority. This report details the five areas of development requiring changes to primary legislation which Defra are consulting on; though some of these are not applicable to the Broads Authority. Members' comments on the consultation questions are sought, and in particular on the questions relating to direct elections and the proposed limit to the maximum term of appointment for members.

1 Background

- 1.1 The Government published a consultation on the governance of national parks and the Broads in November 2010 and, following a local consultation and workshop, a special meeting of the Authority was held on 15 February 2011 when its responses to the six questions asked were agreed. The Government published its response to the consultation responses on 13 September 2011 and a copy of the press release can be found at: <http://www.defra.gov.uk/news/2011/09/13/power-people-national-parks/> and the full document can be found at <http://archive.defra.gov.uk/corporate/consult/nationalpark-governance/nationalpark-governance-sumresp.pdf>
- 1.2 On the Broads specific issues the Authority submitted the following comments.
- (i) *The Authority's current membership and composition of 21 should be retained. It was considered that this represented a good balance and broad base of skills, expertise, interests and knowledge with national and local perspective giving the Authority flexibility in governance.*
 - (ii) *The Authority will consider developing a person specification as guidance for local authorities to assist them in making their appointments to the Authority.*
 - (iii) *There should be no immediate change in the membership, structure and composition of the Navigation Committee, Broads Forum and Local Access Forum at this stage, given the limited time available for consideration and the recent changes in the last five years already implemented. However, a review will be carried out of the role, composition and support provided to all the Authority's consultative bodies, particularly following its reorganisation in light of the reduction in National Park Grant.*

- 1.3 The Government has accepted all three of these recommendations from the Authority which relate specifically to the Broads.

2 Proposed Changes to Primary Legislation

- 2.1 The outcome of the Government's review was a wide range of proposals in the way that NPAs and the Broads Authority operate. Some of these relate to individual authorities and some are general. Some can be carried out under existing powers and others need new legislation. Others build on existing good practice by the authorities. In particular, there are five areas of development requiring changes to primary legislation which the Government proposes to make by use of an Order-making power in the Public Bodies Act 2011.

- 2.2 Defra has therefore issued a consultation paper to invite views in respect of these five areas, which are to:

- make it possible for national park authorities to include some directly elected members;
- remove the need for the Secretary of State to appoint the parish members;
- relax the political balance requirement on local authorities when appointing their members to a National Park Authority;
- make it possible to allow parishes in subsequently specified national parks to choose non-councillors for their seats; and
- apply a maximum length of service of eight years.

- 2.3 The consultation paper addresses the changes which would need to be made to primary legislation, and sets the general framework for future governance arrangements. It does not specify or deal with any changes which would be necessary for particular NPAs, as these will be the subject of a future consultation. These include:

- which NPAs will have the option of non-councillor parish members;
- changes which are achievable under the existing legislation;
- the introduction of directly elected members to individual NPAs; and
- detailed local operational issues relating to the elections.

- 2.4 The full consultation paper is available to view at www.defra.gov.uk/consult/2012/03/08/national-park-governance-1203/. All responses, including those which propose an alternative to the Government's preferred option, will be given due consideration. The Authority will consider this matter at its meeting on 18 May 2012, to allow a response to be made before the deadline of 31 May 2012.

- 2.5 As already indicated much of the paper is not applicable to the Broads Authority, specifically Sections 4 (Secretary of State appointing parish members), 5 (Political balance) and 6 (Enabling non-parish councillor eligibility for parish seats). The two elements which are of potential or actual interest are Section 3 (Direct Elections) and Section 7 (Limit to the maximum term of appointments for members). These are dealt with in more detail below.

3 Direct Elections

- 3.1 The Government proposes to bring forward legislation to allow for the possibility of direct elections to the national park authorities and the Broads Authority, and then to apply that in two NPAs. It is envisaged that these NPAs will be the New Forest and the Peak District, and that the first elections for these appointments will be held in May 2013.
- 3.2 The Government has also indicated that it will undertake a review of the experience gained of the operation of direct elections part way through the first round of appointments – likely to be in about 2015 – to ‘establish whether direct elections enhance people’s engagement with the National Park and sense of an NPA’s accountability’. This review could result in direct elections being extended to some or all of the other NPAs, and it is therefore possible that they could be introduced for the Broads Authority in 2017.
- 3.3 To allow for the possibility of directly elected members, the Government proposes to make an Order to change the Environment Act 1995. However since the Broads Authority was created under separate legislation, it will seek a legislative opportunity to amend the Norfolk and Suffolk Broads Act 1988. This will provide a possible new category of member – those that are directly elected. It should be stressed that this will not automatically *require* NPAs to have directly elected members, just *allow* for them.
- 3.4 The Government has set out a series of basic principles, on which it is seeking views, about the legislative framework for direct elections, and has indicated its ‘general thinking’ on these matters. These are set out in paragraphs 3.5 to 3.8 below.
- 3.5 It is proposed that direct elections should not lead to an increase in the overall size of NPAs, as this would be inconsistent with the moves towards smaller authorities over recent years. It is also proposed that the arrival of directly elected members should not result in any reduction in national seats (in other words they would replace locally appointed members). The actual number of members to be appointed to any particular NPA will be the subject of a further consultation.
- 3.6 It is proposed that the elections will be held using normal procedures for the conduct of local elections, including use of polling stations, proxy/postal ballots and the first-past-the-post system. Members would be elected for a four year term, consistent with the terms of other elected members. Defra will meet the costs of the two initial elections, and if elections were extended to other NPAs, these costs would be considered in the next Spending Review.
- 3.7 It is proposed that the mapped boundary of any given NPA should also be the administrative boundary for the purposes of direct elections, with only those registered to vote for local elections at an address within the NPA being eligible to vote. However the question of who may stand is separate from that of who may vote, and the Government is minded to place no geographic

limitations on where candidates live. Candidates would however need to be 'subscribed' (supported in writing) by 10 people living within the Park who are eligible to vote. Existing restrictions on membership of an NPA (including MPs, employees of the NPA and people holding a politically restricted post within local government) would apply to these appointments.

- 3.8 In order to ensure adequate representation across an NPA, the Government is minded to provide that each will be divided into wards for the purposes of the election, the number of which will correspond to the number of members to be directly elected.

4 Limit to the Maximum Term of Appointment for Members

- 4.1 Although there is currently a limit of 10 years on the maximum term of appointment for 'national' members appointed by the Secretary of State, local authority and parish members can serve on NPAs for an indefinite period as long as they remain as councillors and continue to be re-appointed.

- 4.2 The Government has decided to limit the maximum term for national members to eight years, in line with many other public bodies, with effect from 1 April 2012. It also proposes, for consistency, to extend this limit to local authority and parish members.

- 4.3 With regard to possible re-appointment, the national members who have served their full term of eight years are not eligible to re-apply for a fresh appointment until a period of three years has expired, at which time they will be considered alongside other applicants. It is proposed to extend this arrangement to local authority and parish members.

- 4.4 It should be noted that in its response to the original consultation in February 2011, where the question was posed '*Whether there should be a limit on the length of time which local authority and parish members can serve, and a reduction in the maximum term for the Secretary of State "national" members (currently 10 years)*', the Authority stated:

"The Authority recommends no change to the existing 10 year maximum term for Secretary of State member appointees and those appointed from the Navigation Committee, subject to flexibility to allow a 'special extension' in exceptional circumstances, for example if it is in the wider interests of the Authority to retain or appoint a Chair.

With regard to local authority appointees, the Authority does not support a maximum term (which would need some form of Governmental regulation as the Authority cannot determine which members are appointed by local authorities), but will instead include a proviso in the person specification that members ought not to be appointed for more than three four-year terms".

5 Appointment of Parish Members

- 5.1 The section relating to the appointment of parish members addresses the issue of who should take over from the Secretary of State in formally confirming or 'making' the appointment. A number of options are considered, one of which is that the NPA itself should make the appointment. The paper concludes that this would not be appropriate, and that 'it would be best to avoid any perception that an Authority might be able to choose its own members' as it is considered that there is 'a propriety issue, or at least the appearance of one, in allowing the Authority to appoint to itself'.
- 5.2 Whilst this in itself is not relevant to the Authority (as it deals solely with parish members), members may like to note the following comparison which was made with the arrangements which apply in the Broads:

"In the Broads Authority, the BA does appoint its statutory Navigation Committee and, from that, selects two members to serve on the full Authority. But that is a very restricted example as it applies to only two members and there are strict conditions about who may serve on the Navigation Committee (two relate to pleasure craft; one to national pleasure craft associations; one to local pleasure craft associations; two to bodies representing persons likely to pay ship passenger or goods dues; one to other users and one to Great Yarmouth Port Authority. And five are appointed from the existing Broads Authority members). So in reality, the power which the BA has is to choose two people from a pool of eight. We do not think this sets a precedent which would cover parish appointments."

6 Conclusion

- 6.1 The consultation paper seeks views on 17 questions. As the Government has already accepted the three recommendations from the Authority which specifically relate to the Broads, there is no need for the Authority to respond to questions 11 to 15. However, the Committee's comments on the consultation questions 1 to 10 (in relation to Direct Elections) and 16 to 17 (in relation to the maximum term of appointment for members) are sought. These questions are set out in Appendix 1.

Background papers: Letter from Defra dated 8 March 2012 and consultation paper on changes to National Park governance

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Broads Plan Objectives: None

Appendices: APPENDIX 1 - Consultation Questions 1 to 10 and 16 to 17.

Summary of Consultation Questions

Direct Elections

- Q1.** Do you agree that we should legislate to allow for the possibility of directly elected members to English National Park authorities and the Broads Authority?

If you disagree, is this because you believe:

- a) the Parks already have sufficient local accountability,
- b) other – please explain.

- Q2.** Do you agree with the principle of accommodating directly elected members into an Authority by making a corresponding reduction across the local authority and/or parish seats, to maintain the overall size?

If you disagree, is this because you believe:

- a) an authority's membership should be increased to accommodate any directly-elected members,
- b) the category of 'national' members should be used as well as local authority and parish members to accommodate directly-elected members,
- c) other – please explain.

- Q3.** Do you agree with the general approach to these elections described in paragraph 3.10?

If you disagree, please explain your reasons.

- Q4.** Do you think that any direct elections to National Park authorities and the Broads Authority should be:

- a) combined with other elections where practicable,
- b) held separately,
- c) other – please explain.

- Q5.** Do you agree that we should trial direct elections to evaluate their efficacy before taking a view as to whether they should be rolled out across other National Park Authorities and the Broads Authority?

If you disagree, is this because you believe:

- a) direct elections should be implemented without piloting,
- b) other – please explain.

- Q6.** Do you agree with these proposals on eligibility to vote and the electoral system?

If you disagree, please explain your reasons.

Q7. Do you agree that we should place no geographic limitations on where a candidate for election to a National Park Authority can live?

If you disagree, is this because you believe:

- a) candidates should live within the Park,
- b) other – please explain.

Q8. Do you think that any particular restrictions should be placed on who can stand for directly elected seats (over and above the general restrictions applying to all members)?

If so, please explain what those restrictions should be.

Q9. Do you agree that any nomination for candidacy to become a National Park member must be subscribed by 10 people eligible to vote in such an election?

If you disagree, please explain your reasons.

Q10. Do you agree that, for the purposes of direct elections only, a Park should be arranged into wards, corresponding to the number of members to be directly elected?

If you disagree, is that because you believe:

- a) the poll should be 'Park-wide',
- b) there should be multi-member wards,
- c) other – please explain.

Limit to the maximum term of appointment for members

Q16. Do you agree that there should be an eight year limit on the period which local authority, parish, and directly elected members, as well as national members, can serve on a National Park authority?

If you disagree, is this because you believe:

- a) there should be no limit to the length of service of local authority and/or parish and/or directly elected members,
- b) there should be a different limit to the length of service of local authority and/or parish and/or directly elected members (please specify),
- c) other – please explain.

Q17. Do you think local authority, parish, and directly elected members reaching the 8 year membership limit for NPAs should be:

- a) eligible to be considered alongside new nominees immediately,
- b) required to wait for a specified number of years before being considered for nomination (please specify),
- c) other – please explain.