

REVIEW OF ENGLISH NATIONAL PARK AUTHORITIES

1. Introduction

- 1.1 The Department for Environment, Food and Rural Affairs (DEFRA) has carried out a review of English National Park Authorities (NPAs) and made recommendations to Ministers. They expect to make progress straight away on many of the recommendations, but have decided to invite further views on seven of the issues raised. The report is available on www.defra.gov.uk. A copy has been put in the Members room.
- 1.2 This report brings to Members attention all of the recommendations and the Government's response and intended action for each. A response to Ministers is recommended for those areas identified for consultation.

2. The Review

- 2.1 It is Government policy that non-departmental public bodies should be reviewed every 5 years or so by their sponsor Department. Although this would not normally apply to NPAs the Government decided that as they were established under the 1995 Environment Act a review of English NPAs was timely.
- 2.2 The purpose of the review was "to make recommendations to DEFRA Ministers on any improvements that could usefully be made on the workings of the NPAs, the framework within which they operate and their relationships with partners and other key stakeholders"
- 2.3 The review was intended to have "a relatively light touch". The Government made it clear that that it wishes to see National Parks continuing to be managed by independent National Park authorities. The review was specifically about existing NPAs, not potential new ones, although it was recognised that the outcome will have implications for the way in which any new Authorities operate. The National Assembly for Wales may review the Welsh NPAs next year.
- 2.4 The general observations made by DEFRA from their consultations and discussions while preparing the review report are attached at Annex A.
- 2.5 In their statement the DEFRA Ministers endorse the review's conclusions and the guiding principles underpinning it:
 - **Evolution not revolution:** recognising that there is a long history to National Parks and their management
 - **One size may not fit all:** Parks have different characteristics, cultures and challenges
 - **National Park Authorities are not large, or all purpose:** their activities and decision-making structures should reflect this
 - **Clear Government priorities for Park authorities:** they will never be able to do all that some people might want
 - **Outward looking authorities:** acting as exemplars in tackling the challenges facing rural areas generally

3. Review Recommendations

3.1 The 54 recommendations, together with suggested next steps are attached at Annex B. They are made for issues grouped under four headings:

- Policy
- Governance
- Sponsorship
- Resources

With respect to existing New Forest District Council functions Members' attention is drawn to the following recommendations:

- 4 Fostering Social and economic well being
- 11 Statutory planning responsibilities and targets
- 12 Evaluation of planning policies as they affect National Parks and implications of reforming the planning system
- 16 Principles for tourism in National Parks
- 18 Compliance with Section 62 duty for National Park purposes
- 41 Cross boundary working
- 52 Co-operation and joint working

3.2 DEFRA Ministers intend to set out a new vision - one rooted in the primary purposes, but recognising the new challenges facing Parks and their communities. The principles of sustainable development and social inclusion will underpin that vision.

3.3 Ministers expect to make progress straight away on many of the recommendations including:

- 1 Vision
- 4 role in promoting sustainable development
- 15 promoting understanding of Parks
- 16 promoting sustainable tourism more vigorously
- 33 clarifying the roles of Central Government, the Countryside Agency and others
- 42 new principles for budget allocation

3.4 Some recommendations require more work and further views are being sought. These are set out below with NFDC officer suggested responses.

3.5 **Appropriate level of officer delegation for planning applications**

Recommendation 11: National Park Authorities' statutory planning responsibilities should remain unchanged. In view of the highly sensitive nature of a high proportion of applications in some National Parks, DEFRA should consider, with the Office of the Deputy Prime Minister (ODPM) and National Park Authorities, whether the national Best Value target of delegating 90% of planning decisions to officers is appropriate for National Parks, and whether a different target(s) should be set to reflect the special circumstances in the Parks.

Comments made in the report include:

"The arguments for retaining Park-wide planning powers are strong, particularly in relation to the production of Park-wide plans."

"The case for National Park Authorities retaining all development control work is perhaps less compelling – though it is not clear that alternative arrangements would be better.One suggestion is that development control in a National Park might be delegated to constituent local authorities, with the National Park Authority retaining a power to recover cases for its own determination. We are not convinced that such an arrangement would deliver consistent decision-making and support integrated management of Parks. It would also mean Park Authorities being seen as a negative influence in planning. In the absence of authoritative evidence to the contrary, responsibility for both local planning policy and development control should remain with National Park Authorities."

"Figures for 2000/01 show that National Park Authorities were well below the national Best Value target of delegating 90% of planning decisions – with percentages ranging from 42% to 73%. It is difficult to say what level of delegation is appropriate for National Parks, though we would be concerned if relatively low levels of delegation meant members not having the time to fully engage with wider strategy."

"We would expect planning committees in Park Authorities, as elsewhere, to focus on those applications that are particularly controversial, or complex. We believe DEFRA should consider with National Park Authorities what level of delegation is appropriate to Parks and whether different targets should be set for each Park. A useful next step might be for National Park Authorities to come forward with their own suggested targets and reasons for their current levels of delegation, which DEFRA and the Office of the Deputy Prime Minister could then consider. Targets should be made public and justified. The Best Value reporting system offers a suitable means of setting targets and monitoring performance."

"Arguments that National Park Authorities refuse planning permission more readily than local authorities seem misplaced. From 1997 to 2001, the approval rates in the Parks averaged 89% – with a range of between 85% to just over 90%. This compares with a national approval rate for 2000/01 of 87%. Recent research for the Office of the Deputy Prime Minister on the diversification of farm businesses showed that the approval rate for planning applications involving diversification was 86% in National Parks. That was slightly higher than for local planning authorities overall."

"Some concern has also been expressed that National Park Authorities, as planning authorities, may not be sufficiently engaged with highway authorities in drawing up local transport plans. The Department for Transport's guidance on local transport plans makes clear the need for highway authorities to involve all stakeholders in development and implementation. We would expect National Park Authorities to be one of the key stakeholders and for highway authorities to work closely with them. Whether sufficient resource, or priority, is being given by National Park Authorities to transport planning may merit further investigation."

Suggested response - While it might be appropriate to have a reduced target for delegation to officers in National Parks, it is hard to see that the circumstances in these areas are likely to be greatly different to those in Areas of Outstanding Natural Beauty (AONBs) and Conservation Areas (CAs). In order to achieve the quality of design appropriate to these areas, which requires considered discussions between applicants and the Planning Authority, it would be better to consider varying the national Best Value target for determination of percentages of applications within a given period (depending on the category of application) for the areas of National Parks, AONBs and CAs.

3.6 **Whether National Park Authorities should have statutory responsibility for rights of way**

Recommendation 14: *National Park Authorities should be encouraged to use their legal powers to create new access opportunities and to improve the existing path network. DEFRA should consider with the National Park Authorities whether Authorities should become statutorily responsible for rights of way. They should work closely with the Countryside Agency, in consultation with English Nature, to develop arrangements for managing the new right of access to open country.*

Comments made in the report include:

"Under existing legislation, Park Authorities have powers to enter into agreements or make orders to create new paths, or access, but have not yet used these powers extensively. While most Authorities seem good at managing the existing rights of way, there is considerable scope to improve the existing network and provide new opportunities for a wider range of users."

"It is in some ways surprising that Park Authorities are not statutorily responsible for rights of way. But current arrangements seem to be working reasonably well and few respondents have sought change – which would need legislation. Nevertheless, as the maintenance and improvement of the path network is central to the Parks' second purpose – and Parks Authorities are, under the Countryside and Rights of Way Act 2000, the statutory access authorities for managing the new right of access to open country – there is a case for looking again at whether Park Authorities should be given statutory responsibility for rights of way. Park Authorities should, in any case, be fully engaged with the preparation of rights of way improvement plans, which – because of their expertise and experience – should be models of good practice."

Suggested response - With the introduction of the Countryside and Rights of Way Act (CROW) and NPA responsibilities for managing rights of access to open country, there may be some advantages in NPAs being given statutory responsibilities for Rights of Way. Whether this change is made, or delegation arrangements continue to be used it is of great importance that there are good linkages between path strategy and maintenance issues within National Parks and their adjacent settlements. This is particularly important for the proposed New Forest National Park, where areas of the Waterside and Barton / Milford-on-Sea are proposed to be excluded from the Park and will be isolated between the Park and the coast.

3.7 **Membership of National Park Authorities**

Recommendation 22: *In the longer term, consideration should be given to legislating for a maximum membership of between 20 and 25, and changing the mix to three-fifths local representatives (local authority and parish council members) and two-fifths national appointees. This should be combined with – and ideally preceded by – measures to ensure effective consultation with local and regional stakeholders.*

Comments made in the report include:

"We have given considerable thought to whether the weaknesses, real or perceived, of the number and mix of members are sufficient to justify change and therefore legislation."

".....most Park Authorities seem to work reasonably well most of the time. However, we believe this is despite current arrangements rather than because of them. The fact that most Authorities have managed to work within the current structures reflects well on them, particularly on senior members and management. But this is not sufficient argument for leaving things as they are."

The Edwards review – which led to the establishment of independent National Park Authorities – suggested between 18 and 24 members as providing the right balance between efficiency and acceptable representational coverage. It also proposed that membership should be equally divided between district councils, county councils and Secretary of State appointments. Edwards did not propose either parish council members or directly elected representatives.

When the bill to create independent Park Authorities was introduced to Parliament, it proposed that half plus one of members would be local authority appointees with the remainder being national members appointed by the Secretary of State. An amendment during the passage of the legislation provided for parish council members to be appointed from the Secretary of State's allocation.

Under the recent Scottish National Parks legislation, at least 20% of members are directly elected, with the remainder divided equally between local authority nominees and those selected by Scottish Ministers. Unlike England, Scotland does not have parish councils.

Taking account of all these considerations, we are persuaded that there is a case for change to both the size and mix of membership. Whilst any limit on numbers is to some extent arbitrary, we believe that Authorities' memberships are overly large in relation to their functions. For the largest Park Authority, the Peak, we would suggest a maximum of around 25 members: for the others, around 20 might be appropriate.

On the mix of members, we are similarly persuaded that some change would bring benefits. In view of their national designations and the fact that Park Authorities are almost entirely funded through general taxation, some argue that "national" appointments should comprise the majority – even a large majority – of members.....On the other hand, some local people feel that National Park Authorities should be more like local authorities with all members being directly accountable to local communities.

We do not support either position. National Park Authorities are hybrids – and so long as they remain hybrids, we believe their membership should be broadly balanced. We therefore wish to see local authorities, parish councils and national interests continuing to be represented on Park Authorities. We also take the view that, despite Park Authorities being funded from national taxation, a majority of members should continue to be selected locally.

We feel that a reasonable composition would be local appointees (local authority and parish council members) three-fifths, with national appointees comprising the remaining two-fifths. Within the local element we envisage the split between local authority members and parish council members being two-fifths – one-fifth, though there may be a case for some flexibility. We would not wish to see parish council members removed as our impression is that they have brought useful perspectives and, by providing grassroots links with local people, have helped improve the standing of Authorities with local communities.

Parish council members are currently counted as Secretary of State appointees. Whilst the practical arrangements for the Secretary of State formally appointing parish council members appear to work reasonably well, it is self-evident that parish council appointees should not be seen as national appointees in any reassessment of representation.

It should also be borne in mind that many so-called "national" members have, in fact, strong local connections with their respective Parks and may, indeed, live in them. So the distinction between "national" and "local" members can be a misleading one.

In essence, this recommendation is an attempt to strike a reasonable balance between efficient decision-making and effective representation.

If implemented, this recommendation should:

– help deliver more efficient, streamlined structure and decision-making;

- make the size of Authorities more proportionate to the range and scale of National Park Authority functions;
- strike a better balance between local and national interests, and better reflect funding of National Park Authorities;
- retain a majority of “local” appointees – though the “in-built” majority of local authority members would be lost;
- offer the Secretary of State sufficient scope to ensure effective representation of a range of key stakeholders."

Suggested response - NFDC maintains its view that in the case of the New Forest there should be special legislation so as to allow for a New Forest National Park Authority to have a membership that reflects the special nature of this area and its particular requirements. Nonetheless this recommendation goes part way towards addressing the inadequacies inherent in present membership arrangements and upon which NFDC commented in responding to the Countryside Agency consultation on administrative arrangements for the New Forest. The restricted number of Secretary of State appointees is the most limiting factor in attempting to meet the requirements for special New Forest interests, such as commoners and Verderers, to be represented on a New Forest National Park Authority. The recommendation has the potential to help address this. However it is essential that there are adequate opportunities for local arrangements or protocols to be made so as to ensure that the functional and representative range of Secretary of State appointees meets both national interests and local special interests within individual National Parks.

3.8 Chair of National Park Authorities

Recommendation 24: *DEFRA should, in consultation with National Park Authorities, the Countryside Agency and the Local Government Association, develop ideas for the appointment of independent chairs for National Park Authorities.*

Comments made in the report include:

".....Park Authorities' hybrid status and membership can give rise to considerable confusion as to whom, if anyone, Park Authorities are accountable.

If appointed by the Secretary of State, an independent chair would provide a direct line of accountability to national government. Other advantages include avoiding the risk of the chair being seen as coming from one “camp”; providing a wider choice of candidates; and making it easier to assess national appointees – and potentially all Authority members.

.....We recommend that the idea and the practicalities of implementation are matters which merit further public consultation, including with National Park Authorities. For example, if not appointed by the Secretary of State, who else might be the appointing authority? There are other important matters of detail that also need careful further consideration – including the powers, duties and voting rights of independent chairs."

Suggested response - It might be helpful for the chair of a NPA to be seen to be truly independent of any particular group within a hybrid authority. The appointment of the Official Verderer within the New Forest manages to combine a "national" appointment with a process that is acceptable locally and provides an independent local person to fulfil that role. Further investigation of this recommendation is welcomed.

3.9 Continuity of parish and local authority representatives

Recommendation 29: *Consideration should be given to allowing members appointed to a National Park Authority, who cease to be councillors during an election but are subsequently re-elected to parent councils to continue to hold office until a new appointment has been made, subject to a limit of three months.*

Comments made in the report include:

"Concern has been expressed about the impact of the local elections cycle on the appointments process, particularly for parish council members. Local councillors relinquish their position and become candidates once an election is called. They therefore cease to be members of a National Park Authority until their re-election and re-appointment by their parent authority. The whole process can take over three months.

We suggest that DEFRA should consider amending the legislation to allow members appointed to a National Park Authority to continue serving during an election campaign and in the interim period before their National Park Authority membership is re-confirmed. This flexibility should not apply to those members who lose their seats on the parent authority in the election, or choose not to stand for re-election. Although the problem is most marked with parish appointees, if an amendment is made to the legislation, there is a case for treating local authority councillors in a similar way."

Suggested response - This recommendation is supported

3.10 Members code of conduct

Recommendation 32: *The National Park Authorities and Broads Authority's model code of conduct for members should be amended to ensure a level playing field for all interests.*

Suggested response - the National Park and Broads Authority's model code of conduct is written in similar terms to the code for local authorities, but there are two significant differences concerning the handling of the personal interests of landowners and navigators. The recommendation is that the code is rationalised by deleting these clauses. This is supported.

3.11 National Park Authorities funding

Recommendation 46: *On balance, 100% of National Park grant should come direct from central government rather than, as now, 25% being redirected via local authorities.*

Comments made in the report include:

"Under current legislation, National Park Authorities are able to levy a precept on constituent local authorities. This gives the impression that there is a real cost to those authorities – and to Park residents. In practice, however, their share is funded by central government. The current 75:25 split is therefore largely presentational, but this is not well understood.

On balance, we believe that there would be benefit in having all grant channelled directly from central government. This would more accurately and transparently reflect the financing of Park Authorities, and would be administratively more straightforward. To remove the Park Authorities' levying power under section 71 of the Environment Act 1995 would need legislation."

Suggested response - During public consultations on the proposed New Forest National Park there has been a lot of confusion about the source of National Park funding and the implication for local tax payers. The recommendation is welcomed. It would make it much more straightforward and clear that funding is from central government.

3. Financial Implications

3.1 None arising directly from this report.

4. Crime and Disorder Implications

4.1 None arising directly from this report.

5. Environmental Implications

5.1 None arising directly from this report.

6. Portfolio Holder comments

6.1 These will be reported orally at the meeting.

7. Recommendation:

That a response, based on the officer suggested responses set out in the above report, be made to the ministerial statement asking for comments on some recommendations made in the DEFRA Review of English National Park authorities

Further Information:

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Background Papers:

Review of English National Park
Authorities
DEFRA July 2002
Ministerial statement on DEFRA
English NPA review
July 2002

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