

www.defra.gov.uk

Consultation on Direct Elections to English National Park and Broads Authority

July 2008



© Northumberland National Park Authority 2008 used with permission.

Department for Environment, Food and Rural Affairs
Nobel House
17 Smith Square
London SW1P 3JR
Tel: 020 7238 6000
Website: www.defra.gov.uk

© Crown copyright 2008

Copyright in the typographical arrangement and design rests with the Crown. This publication (excluding the royal arms and departmental logos) may be reused free of charge in any format or medium provided that it is re-used accurately and not used in a misleading context. The material must be acknowledged as crown copyright and the title of the publication specified.

Information about this publication and copies are available from:

Defra
National Parks Policy and Sponsorship Branch
Zone 1/03
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6EB

This document is available on the Defra website.

Published by the Department for Environment, Food and Rural Affairs

Contents

1: Summary	1
2: Background	1
3: Issues	3
4: Consultation Questions	6
5: Next Steps	7
6: How to comment	7
7. Copies of responses	8
Annex: Composition of National Park and Broads Authorities	9

1. Summary:

Parliamentary consideration of the Natural Environment and Rural Communities Act 2006 and the Broads Bill 2007 has resulted in an ongoing issue about direct elections to the National Park and Broads Authorities. As a result, the Government is undertaking an open consultation to seek views from its stakeholders to explore whether directly elected members would aid or hinder the decision-making process and/or strategic functioning of National Park and Broads Authorities. It wishes to give its stakeholders the opportunity to evaluate the relevant issues and in order to inform this thinking, those issues are set out below. It simply sets out the issues for information purposes only without any views or recommendations. But consultation questions seeking views on the above implications are given below.

The consultation takes into account the fact that the Broads Authority and the National Park Authorities were established under two different Acts of Parliament. This has resulted in different membership arrangements. This paper evaluates the principle of direct elections as they would apply to two different types of Authorities.

Responses to this discussion paper are invited by Friday 28 November 2008.

2. Background:

The eight National Parks in England were designated under section 5 of the National Parks and Access to the Countryside Act 1949 for their (a) natural beauty; and (b) opportunities for open-air recreation.

National Park Authorities were established under section 63 of the Environment Act 1995 to deliver the statutory National Park purposes, namely to (a) conserve and enhance the natural beauty, wildlife and cultural heritage; and (b) promote opportunities for the public understanding and enjoyment of the special qualities of their Parks. Circular 12/96 states the policy arrangements concerning the functioning of the Authorities. Paragraph 33 says that “the membership of each National Park Authority should be kept as small as possible consistent with effectiveness and an equitable distribution of local representatives”.

The Broads Authority was established under its own primary legislation, the Norfolk and Suffolk Broads Act 1988. It shares the two purposes of National Park Authorities, but has a third navigation purpose of “protecting the interests of navigation”.

(i) National Park Authorities under section 63 of the Environment Act 1995:

The existing membership arrangements of the National Park Authorities, as set out in Schedule 7 of the Environment Act 1995, comprise: (1) Local Authority Appointees; (2) Secretary of State national appointees; (3) and Parish members. The rules for determining the relative size of these 3 groups were amended by the Natural Environment and Rural Communities (NERC) Act 2006. The basic rules are that: every district, county, or unitary authority with land in a Park will be entitled to appoint at least one member unless it chooses to opt out.; and the total number of local authority and parish members must exceed the number of ‘national’ members. The size of all the Boards of the English National Park Authorities is currently 22, except for the Peak District at 30 to reflect the number of its local authorities. Nominations for appointments to the National Park Authorities are sought annually, although not every NPA will have vacancies every year.

(ii) Broads Authority under the Norfolk and Suffolk Broads Act 1988:

The Broads Authority under its own legislation, the Norfolk and Suffolk Broads Act 1988 has different arrangements. The Secretary of State appoints 10 of the 21 members of the Authority with no Parish nominees, 9 are appointed by the constituent local authorities and 2 by the Authority from its Navigation Committee.

The membership structure of the National Park Authorities arose out of the local government framework of the former joint local authority committees and planning boards for the National Parks. See the attached annex for details. The current structure comprising three different types of member is as follows:

(a) Local Authority Members

Local Authority members to the National Park and Broads Authorities are appointed by constituent local authorities. Paragraph 2 of Schedule 7 to the 1995 Act requires local authority appointees to be serving councillors of their appointing local authorities, which are expected to have regard to the desirability of appointing members who represent divisions for wards situated wholly or directly within the relevant Park. In addition, local authorities are also required to observe the rules on political balance under the Local Government and Housing Act 1989 when making appointments.

Every local authority with land wholly or partly in a National Park is entitled to appoint at least one member. The principle of each local authority tier being equally represented was adopted when the NPAs were established in the mid 1990s. But subsequent restructuring of local government means that this is no longer always the case. Further conditions relating to the appointment of local authority members are set out in sections 1 to 3, 15 to 17 of and Schedule 1 to the Local Government Act 1972; and Part III of Schedule 1 to the House of Commons Disqualification Act 1975.

Local authority members automatically lose their NPA seat when their term of office as a councillor ends, but if re-elected as a councillor, they can then be re-appointed to the NPA and there is no limit to the number of times they can be re-appointed.

(b) Secretary of State National Membership Arrangements

National appointees are selected through an open recruitment process which, although it is not a formal requirement, reflects the guidance issued by the Office of the Commissioner for Public Appointments.

The guidance on appointing Secretary of State National Members to the National Park and Broads Authorities states that they are expected to: (a) appreciate the national interest – the views of people not living or near the National Parks and the Broads; (b) understand issues affecting the National Parks and Broads Authorities, and to work to achieve the Parks' and Broads Authorities' purposes; (c) bring experience of wider issues, which could include work with young people, environmental projects, social inclusion, or just an active interest in outdoor recreation; (d) contribute positively to debate within an authority; (e) be ready to make decisions on any aspects of Park and Broads management; and (f) commit a minimum of 2 to 3 days per month, to authority work (this can vary from Park to Park). In order to ensure the right balance of personal qualities and experience, the

Secretary of State seeks a broad range of backgrounds to reflect the social and cultural mix of the country to represent the national interest. Individuals will be selected for their personal qualities and experiences and not as representatives of specific groups or organisations.

National members are appointed for terms of between 1 and 4 years and can be re-appointed subject to an overall limit of 10 years.

(c) Secretary of State Parish Members

Parish members are chosen by the parishes collectively (though formally appointed by Secretary of State) and in accordance with Schedule 7 to the Environment Act 1995, must be serving councillors of a parish council with land in the park or, where there is no Council, the chair of the parish meeting for a parish with land wholly or partly in the Park.

As stated in the former Department of the Environment Circular 12/96, Parish members are appointed to represent the wider Park view and not just the interest of their own parishes. The Secretary of State looks to parishes in each National Park to maintain a local mechanism to select candidates commanding general support whom he can appoint to the Authority. He does not propose to determine the mechanism, but will look to a result which will enable the full range of areas within the Park to be represented.

The number of the different member types for each authority are given in the annex. One recommendation of the 2002 Review of English National Park Authorities, reflected in the 2007 reductions stated that Authority Boards should have a maximum size of between 22 to 25 members in order to streamline their effectiveness. But the Peak District, exceptionally has 30 members to accommodate all the local authorities who have land in that Park.

(d) Broads Authority issues:

The Broads Authority under its own legislation, the Norfolk and Suffolk Broads Act 1988 has different arrangements. The Secretary of State appoints 10 of the 21 members of the Authority with no Parish nominees and the rest are appointed by the constituent local authorities and by the Authority from its Navigation Committee. So in addition to the general issue of direct elections, a separate question arises here of whether Parish members should be included.

3. Issues

The merits of direct elections have been debated periodically ever since independent NPAs were first proposed. The main arguments for and against directly elected members can be grouped under these general headings:

- questions of legitimacy and the 'democratic deficit';
- whether direct elections might produce members with different interests;
- whether they would make NPAs more or less effective than at present; and
- what the costs and other practical issues might be.

In the following paragraphs we summarise what we understand to be the key considerations under each of these headings.

(1) Legitimacy and the democratic deficit

Those who are democratically elected have a legitimacy which no appointee can ever have. This is a central argument for those who have argued for direct elections. And it is a particular pertinent in the case of planning which is the one “main-stream” local authority service which NPAs deliver. In the rest of the country, development control decisions are taken by elected, and therefore removable, councillors, but for National Parks development control is the responsibility of members who (although drawn from all tiers of local government and beyond) are not directly elected.

There is already a degree of local accountability arising from the fact that many members are “indirectly elected” – that is, they have been elected by local people to serve on a county, district, unitary, or parish council in that area and then chosen by their fellow councillors to serve on the NPA (in much the same way as happens with other Council nominations – for example to fire and police authorities). And their NPA membership is tied to their status as a councillor – once they cease to be a councillor they lose their place on the NPA (and can only be re-appointed if they have been re-elected as a councillor).

All local authorities with land in a National Park (unless a local authority wishes to opt out) are represented. And each person in those areas has the opportunity to elect local authority councillors who are subsequently appointed to a National Park Authority taking into account the requirement under the Local Government and Housing Act 1989 to reflect the political composition of constituent local authorities. The Parish Councils appoint amongst themselves who should represent the Parishes as a collective entity. As most of those councils and authorities have a large proportion of their areas in the Park, the net effect of those arrangements should be similar to the effect of direct elections. However, this could potentially result in local authority members whose wards are outside the Parks having seats on an Authority. Nevertheless, this could be helpful to the functioning of the Parks, from a regional perspective, since the National Parks have a significant influence on their regions and vice versa, especially in relation to wider regional issues.

Moreover, it is perhaps also worth noting that some of the characteristics of a directly elected body might not apply to a body which was only partly elected – especially if it continued the NPA tradition of being non-party political. In those circumstances, the directly elected members might always be a minority and so unable to deliver the ‘manifesto’ on which they had sought election. In relation to authority decisions, National Park and Broads Authorities have to make such decisions in accordance with sustainable development principles taking into account environmental, social, and economic issues to fulfil their statutory purposes. Research undertaken on behalf of the Department for Communities and Local Government on the role of Councillors in planning found that party politics were found to be a less significant influence on planning decisions than the skills, knowledge, and experience of members.

(2) What sort of member might emerge from direct elections?

The intention has always been that National Park Authority members as a collective entity cover the range of issues faced by the Parks and the Broads. But an analysis of the interests of NPA members, as published, on National Park and Broads Authority websites highlighted some differences in the interests of membership types. Conservation interests were more highly represented by national members than local authority and parish members. Most local authority conservation interests seemed reflected in their engagement with local communities. Educational interests of national members were weighted in favour of higher and further education whereas for local authorities it was primary and secondary education. National members had the greatest representation of recreational and National Trust Interests. More national members had professional planning backgrounds than the two other membership types. Members with the highest level of involvement in charities, local politics and a high level of local expert knowledge about communities, cultures and traditions, farming and land-owning, and land management interests were from Parish Councils.

So far as parish members are concerned, these are mainly male (27 out of the 32 currently in post) and about 1 in 3 is a farmer.

The only evidence that we have on the sort of member who might emerge from direct elections comes from the Scottish experience. See the annex for further details. Of the 10 current directly elected members in Scotland, all live within the Park, 6 out of 10 are men and 4 out of 10 are farmers.

A particular concern in past discussions had been that people putting themselves forward for election might be driven by personal goals (e.g. using it primarily as a way into a political career) rather than being genuinely interested in National Park issues. However that does not seem to have been the case in the Scottish experience.

(3) How would directly elected members impact on the effectiveness of the NPAs?

NPAs are considered to be already operating effectively – that is the picture that emerges from both Defra's 2002 Review of English National Park Authority and from the National Park Performance Assessments undertaken on individual NPAs in 2005.

So the question is whether the addition of directly elected members would enhance that performance, or alternatively might run the risk of impeding it.

A particular concern in past discussions is whether, in a body which was only partly elected, the directly elected members might be seen (and might see themselves) as having more legitimacy than their colleagues and so their views should carry more weight. In practice, this does not seem to have happened in Scotland.

Defra normally monitors Authority effectiveness using National Park Authorities Performance Assessment. But a point is made here that stakeholder perception on effectiveness could simply be a reflection of how well a particular authority is delivering their interests or other interests. In the case of National Park and Broads Authorities, there is a wide range of issues to take into account and achieve a balance between them. In such circumstances, the effectiveness of an authority could be argued to be subject to the success of achieving a balance between those

different interests whilst maintaining an appropriate size of Authority to enable efficient decision-making within an appropriate timeframe and framework.

(4) Costs and practical issues of running direct elections

If the principle of directly elected members were adopted, then a range of operational questions would arise. For the present, we see no need to fully bottom out those issues as the current consultation focuses on the issues of principle alone. But to provide a framework for the current “in principle” discussion we make the following observations on cost, electorate and candidates.

Cost:

In Scotland, the most recent election in Loch Lomond and the Trossachs NPA (population about 16,000) cost some £30,000. In the Cairngorms NPA (population also 16,000 but one ward was not contested) it cost some £25,000. These figures are on the basis of an all-postal ballot limited to local government electors within the Park boundary.

We assume that the cost for a similar-sized Park would be comparable in England but there would inevitably be a variation to reflect the different size of electorates in each Park.

If direct elections were introduced in England, this would represent an additional cost which would need to be funded.

The electorate:

The Scottish experience has shown that it is entirely feasible to operate direct elections for those local government electors within the Park boundary. It is open to debate whether direct elections would remain viable with a larger electorate (for example taking in all those who live in the relevant local authority areas). The use of direct elections for national members does not appear to be feasible because that would require the whole national electorate to vote for every National Park vacancy – and for that reason there does not appear to be a viable alternative to continuing to appoint the ‘national’ members through an OCPA based system of open recruitment.

The candidates:

If direct elections were introduced then a decision would be needed on whether candidates would need to demonstrate a local connection (such as living or working within the Park) to be eligible. But this would have no operational impact – it would be just as practicable to run an election with very broad eligibility criteria for candidates as very narrow ones.

4.Consultation Questions:

We are interested in all views which respondents wish to put forward. However if you were able to frame your comments around the following questions, that would greatly help us in analysing responses. In addition, giving reasons for your responses to the following questions would be of further help.

(1) Do you agree/disagree or support/object with/to the principle of Direct Elections?

(2) Do you agree with direct elections resulting in larger authorities

(3) If authorities were to remain the same size, which members should be replaced in favour of directly elected members?

(4) Do you wish for the Broads to have Parish members bearing in mind the overall size of the Authority and replacement of any existing members to accommodate them?

(5) Do you have any outstanding issues?

5. Next Steps

Following the close of consultation, the Government will wish to give careful consideration to all the points which have been made before coming to its own view. It is therefore likely that the Government will announce its response in 2009.

By that time we expect the Broads Bill to have been enacted and, in any case, it is unlikely that Parliament would accept the issues covered in this paper as being within the scope of that Bill. So if the Government were to decide that it wished to introduce direct elections or Parish members on the Broads then a legislative opportunity would have to be found.

6. How to comment:

Comments on these proposals are invited by Friday 28 November 2008

They should be posted or e-mailed to the Department for Environment, Food and Rural Affairs at the following address:

Alasdair Grant
National Parks Policy and Sponsorship Branch
Zone 1/03
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6EB

Or Email: NNPAMembership@defra.gsi.gov.uk

7. Copies of responses

In line with Defra's policy of openness, at the end of the consultation period copies of the responses we receive may be made publicly available through the Defra Information Resources Centre, Lower Ground Floor, Ergon House, 17 Smith Square, London SW1P 3JR. The information they contain may also be published in a summary of responses.

If you do not consent to this, you must clearly request that your response be treated confidentially. Any confidentiality disclaimer generated by your IT system in e-mail responses will not be treated as such a request. The Information Resource Centre will supply copies of consultation responses to personal callers or in response to

telephone or e-mail requests (tel: 020 72386575, e-mail defra.library@defra.gsi.gov.uk). Wherever possible, personal callers should give the library at least 24 hours' notice of their requirements. An administrative charge will be made to cover photocopying and postage costs.

If you submit comments in response to this consultation exercise, we may keep your name and address on a list that will be used for future consultation exercises on related issues.

Annex: Composition of National Park and Broads Authorities:

The current make up is as follows:

	National	District/ County/ Unitary Authorities	Parish/ Community Councils	Directly elected	Navigation Committee	Total
English National Park Authorities (except for Peak District)	6	12	4	-	-	22
Peak District	8	16	6			30
Proposed for Northumberland from 1/4/09*	10	6	6			22
Broads Authority	10	9	-	-	2	21
Scottish National Park Authorities	10	10	-	5	-	25
Welsh National Park Authorities	1/3rds	2/3rds	-	-	-	2 x 18 1 x 24

* This proposal addresses the effect of local government reorganisation – which would otherwise have led to all 12 local authority seats being appointed by a single Council and is currently undergoing public consultation until 17 October 2008.

Historical Membership Arrangements

The above membership arrangements for Secretary of State and Local Authority members appears to have emerged from the joint local authority committees and planning boards for the National Parks as recommended by the Hobhouse Report of 1947 and implemented by the 1949 Act. Those arrangements were replaced by Schedule 17 of the Local Government Act 1972 under s.184 of that Act as amended by section 46 of the Wildlife and Countryside Act 1981. The latter specified that a third of the membership of the Boards and Committees shall be persons appointed by the Secretary of State and that the other two thirds shall be appointed by local government. The 1991 Edwards Review recommended independent National Park Authorities under a similar membership structure as for the joint local authority committees and planning boards in order to ensure a balance between local and national membership interests. The concept of Direct elections was dismissed on the grounds that it would not bring any benefits. Parish members were added at a later stage of the Environment Act 1995 through Parliament in order to accommodate parish interests in place of elected members. The Norfolk and Suffolk Broads Act received Royal Assent in 1988.

Scottish Experience of Direct Elections to NPAs

Scotland has two National Park Authorities, the Cairngorms and Loch Lomond and the Trossachs, which have 25 members each, of whom 20 are appointed by the Minister (10 nominated by local authorities, 10 directly by the Minister) and 5 locally elected from wards within each Park. Those two bodies are non-departmental public bodies, being part of Government, rather than independent bodies operating within the local government framework as in the English model. The elections were

exclusively postal ballots, run by the local authority for the area, and the electorate consists of all those who are registered to vote in local government elections from an address within a Park.

In the last direct elections for Loch Lomond and the Trossachs: there were 16 candidates in total; of the candidates, 15 were men and 1 was a woman; 14 lived within the Park and 2 outside it; turnout ranged from 37% to 47% across the wards; of the 5 who were directly elected all live within the Park, 4 are men and 1 is a woman; 2 are newly elected and 3 are returning for a second term; their professions are – self employed farmer, tenant farmer, retired farmer, running a graphics company, retired shopkeeper. The Cairngorms had a total of 11 candidates: of the candidates 7 were men and 4 women; all lived within the Park; turnout averaged 49% across the wards; of the 5 who were elected all live within the Park, 2 are men and 3 are women, 2 are newly elected and 3 are returning for a second term; their professional backgrounds are education; vet; ski industry/ranger; Scottish Countryside Alliance; and banker/farmer.