

## **9. PEAK DISTRICT NATIONAL PARK CHARITY VEHICLE**

### **1. Purpose of the report**

The purpose of this report is to seek approval to establish a charity to support the corporate objective of diversifying income as part of the Commercial Development and Outreach plan.

### **2. Recommendations**

- 1. To establish The Peak District National Park Trust as a charitable incorporated organisation (CIO) in accordance with the proposals set out in the report;**
- 2. To approve the use of Authority resources, as set out in Appendix 3 of the report, to establish the charity and support its operation for an initial period of 3 years;**
- 3. To appoint Members to a Shadow Board and delegate authority to the Director of Commercial Development and Outreach, in consultation with the Shadow Board, the Head of Law and the Head of Finance, to set up and register the charity in accordance with the proposals set out in the report; and**
- 4. To request that the charity trustees and/or appropriate Authority officers provide an annual report to the Authority and quarterly reports to the Authority's Audit Resources & Performance Committee in line with established corporate performance reporting timetable and procedures.**

### **How does this contribute to our policies and legal obligations?**

3. It contributes to National Park purposes and the corporate objectives of growing engagement, support and income.

### **Background**

4. The principle to create a charity vehicle to support the organisation's engagement, supporter and income development ambitions was established in the Giving Strategy presented to the Peak District National Park Authority (PDNPA) and approved by Members in March 2016.
5. The concept was also set out as an element of the Commercial Development & Outreach Plan (which underpinned the creation and structure of the Commercial & Outreach Development Directorate). This was presented to Members at Strategic Advisory Group meetings in October and November 2016.
6. A detailed report, setting out the rationale for, risks and potential structure of a charity vehicle, was considered by the Authority March 2017. At this meeting the Director of Commercial Development and Outreach was authorised to progress the development of a Charitable Trust, in consultation with the Head of Law and Head of Finance. The Authority also established a Member Working Group and asked that a report setting out the charitable objects, governance and potential investment by the Authority be brought to a future Authority meeting for final approval. The Member Advisory group was duly established as the Charity Working Group with a remit to report recommendations to the Authority in May 2018.

7. The Charity Working Group comprised four Members (including the Chair of ARP Committee) and was supported by the Director of Commercial Development & Outreach, Head of Marketing & Fundraising Development, Fundraising Development Manager, Head of Finance/CFO, Head of Law/Monitoring Officer plus an officer from each of the legal, finance and democratic services teams. The remit of the Working Group can be seen in Appendix 1.
8. The Group met five times and considered the following inputs:
  - South Downs National Park Authority – legal and officer evidence (written and oral);
  - North York Moors National Park – officer evidence (written and oral);
  - Dartmoor National Park Authority – member and officer evidence (written and oral);
  - National Parks Partnership (NPP) – non-executive and executive evidence (written and oral);
  - National Parks UK (NPUK) – Income Growth Working Group (written and oral);
  - Derbyshire Wildlife Trust, Woodland Trust, Guide Dogs, Canal & Rivers Trust, Nurture Cumbria, Yorkshire Dales Millennium Trust – desk market and competitor analysis;
  - Investment scenarios;
  - Derbyshire Council for Voluntary Service – advice on structures/set up;
  - Audience research by independent research agency DJS Research; and
  - Informal market testing among existing and potential stakeholders including Friends of the Peak District and Peak Park Trust.

The key insights from these inputs are set out below:

- Of the 15 UK National Parks 5 have established a charity to support income growth for their Parks by maximising support through donations, legacies and sponsorship and providing access to funding streams and tax benefits which are only available to registered charities.
- A further 3 National Park Authorities are exploring charitable models.
- National Parks Partnerships has established a charitable vehicle to support its fundraising and supporter ambitions. It has chosen a CIO structure to meet objectives around agility and lowest administration costs.
- North York Moors National Park Trust: staff support and associated costs to kick-start fundraising are provided by the Authority. The Authority CEO is the chair of Trustees. Activity for the first few years will be focused on fundraising and partnership building.
- South Downs National Park Trust: The South Downs National Park Authority and The South Downs National Park Trust are working together to establish a financially stable, independent charity to support the South Downs National Park's Partnership Management Plan. To help establish the charity, the SDNPA became a founding patron of the charity, providing staff resources and overheads to establish the charity's governance, operations and fundraising. This was on the basis that the charity's trustees work in partnership with the Authority and contribute to the delivery of the Partnership Management Plan.
- Developing a committed giving scheme requires significant upfront investment. Charities that have successfully done this have long operating histories, high profiles and multiple income streams.
- Headline findings from the audience research carried out by independent agency DJS Research were:
  - Respondents generally agreed that the public may need to support projects facing cuts in government funding. Three quarters of residents

- and visitors agree that this is the case.
- The initial reaction to the proposed charity is positive, especially among residents (74%) and visitors (77%).
  - Two thirds of residents and visitors would consider donating to a Peak District National Park charity.
  - Half of residents and 44% of visitors would consider giving their time to support a Peak District National Park charity.
9. The Charity Working Group has provided a valuable forum for Members and officers to bring views and expertise to bear on the task of understanding the potential value of a charity vehicle in meeting the PDNPA's corporate objectives on income growth and diversification. Given that the proposal of the Working Group is to establish a charity, it is recommended that a Shadow Board is created with support from the Director of Commercial Development & Outreach and colleagues to carry out the work to finalise the charity objects, register the charity, and recruit trustees.

### **Why a charity?**

10. The concept of a charity followed a review, undertaken as part of the creation of the Commercial and Outreach Development Plan (and directorate), of the income generation opportunities for the PDNPA and the National Park to:
- tackle the decline in the level of the Defra-awarded National Park Grant (NPG); and
  - enable the PDNPA to achieve its engagement objectives (and protect its regulatory and conservation objectives).
11. The scale of the income need/ambition has been characterised as returning to the kind of income levels provided by the NPG at the start of this decade. At each budget approval committee during the current corporate plan period, presentations to Members by the CFO have set out the drop, in real terms, of the NPG:
- 'The welcome protection in the new Spending Review settlement follows a period of year on year reductions in National Park Grant from 2010-11 up to 2015/16, leaving our National Park Grant in 2017/18 at a cash level £1.8m below its 2010/11 figure, or in real terms, taking account of inflation over the period, a £3.6m cut, with the Grant now at approximately 65% of its previous spending power in 2010/11'.*
12. The review process to create the commercial and outreach development plan (and directorate) revealed that limited extra income – and more importantly surpluses – could be derived from the PDNPA's trading activities. Even with aggressive marketing and improvements to current product/service offers, revenue growth could be in the order of c£250k over five years. Operational input costs would need to rise to deliver some of this growth. Added to this, there is limited scope of potential trading developments driven by the power of competence which requires activities to be in support of the further understanding of the benefits and qualities of the PDNP. To support its strategic objective of growing support and income, therefore, the PDNPA decided it would need to diversify its income streams and in particular target significant growth in fundraising, an activity within the Authority's power of competence. The establishment of a charity was proposed to help deliver on that objective.
13. But why a charity? Why not simply ask individuals, high net-worth donors, corporations, trusts and foundations to donate directly to the Authority? The simple answer for some of those target audiences is that they can only donate to a charity. For others it is a case that they will not or, at the least, find it very difficult to understand why they should donate to a central government-funded body. A charity offers a clearer simpler message to donors; it removes a potential obstacle in the giving process.

### **Existing donations**

14. It is clear that the Authority can attract voluntary income – the question is whether it is the right or best vehicle to meet fully the future income aspirations set out above? The Authority has been receiving donations over the last few years at an average value of between c£20-25k per year (c0.2% of its total income). If the Authority and its excellent work – which has been going on for over 20 years – is such an attractive proposition one would have expected a steady rise in donations over such a protracted period. The corporate risk of ‘failing to inspire people to give’ therefore is long-standing and remains high (impact and likelihood).
15. It might be that the Authority has been operating in the voluntary income arena against the backdrop of a cluttered, competitive and increasingly connected world where more charities, campaign groups and individuals are clamouring for attention in the spheres of conservation, culture and heritage. It has not, during this period, been driving an overt programme to stimulate donations nor has it had the expertise, infrastructure and systems to support such a programme in place. It could also be the result of the rapid multiplication of communication channels moving the concept of ‘people power’ from simply slogan status to standard operating procedure. At the same time, organisations with longer fundraising histories and more experience have been constantly improving how to generate data-driven donations rather than passively accepting the challenge (and impact) when another proposition enters the market. Finally, the Charity Brand Index, a benchmark of the top UK charities in terms of awareness, perceptions and attractiveness to donors, indicates that giving patterns are relatively entrenched and the barriers to entry relatively high. If these are the reasons for the relative flat-lining of donations, then the rationale for creating a new, specially-designed vehicle that can compete in this environment is a strong one.
16. It should be noted that the advent of a charity would not result in the Authority ceasing activity to ask directly for support. The donation pages of the PDNPA’s website would remain as would its donation points at key assets such as car parks and visitor centres. It would be a case of widening its reach and reducing barriers to potential audiences willing to support. The potential opportunities for a Peak District National Park charity developed for this report include this continuation of donations direct to the PDNPA. Appendix 2 sets out how this would work in diagrammatic form.

### **Audience research**

17. In addition to the environmental and internal analysis, we have also asked the market directly. Headline findings relating to visitors and residents are contained in paragraph 8. This research, conducted by a Market Research Society accredited research consultancy indicated clearly that a charity would provide a good platform from which to make the case for support. The core elements of a charity – a single-minded proposition delivered with emotion to create that all-important ‘smile in the mind’ – would provide a far more powerful fundraising platform than an Authority. The latter is not understood nor seen (and in some senses quite rightly) as the soft-but-effective conduit to channel cash to a good cause. A charity would offer a compelling case for support, focusing on people’s love for the Peak District National Park in general and particular interests such as wildlife, heritage or conservation. Outside of this market research, informal enquiries with stakeholders (for example, Peak Resort) also indicated a desire and support for the creation of such a body and some barriers to supporting an Authority.

### **Benefits of a charity**

18. In addition to its attractiveness in the market, a charity would provide/enable:
  - an effective vehicle to access charitable sources of income currently closed (or difficult to access) to the Authority;
  - enable the application of 25% Gift Aid to donations, tax relief for donors and

legacy givers, maximising the efficiency of fundraising budgets (tax relief for charities is estimated to be worth £3.77bn a year, the main ones being business rates relief, Gift Aid and VAT relief, while reliefs for individuals are worth £1.47bn – *source NCVO*);

- Increased sponsorship/partnership opportunities;
- Transparency of donations, assuring supporters that the donations are going to specific causes;
- Registration with the Fundraising Code of Practice to be seen to encourage and manage donations ethically;
- Ability to actively target campaigns at legacy donations;
- Simplicity of messaging with supporters via effective CRM solution;
- Registration with fundraising schemes such as Give as you Live which require a charity number; and
- Potential discounts (such as CRM solutions) which require charity status.

### **Proposal**

19. The proposed formal title for the charity is:

#### **The Peak District National Park Trust (PDNPT)**

The title is deliberately similar to that of the place and the Authority. It is possible that a public-facing brand name for the charity could be created for marketing purposes.

20. The proposed structure for the charity is:

#### **A Charitable Incorporated Organisation (CIO)**

A relatively new form of corporate structure exclusively available to charities, it is a form of corporate charitable entity which will automatically have charitable status and is least resource intensive.

21. A CIO provides:

- Single registration with the Charity Commission only and therefore the most streamlined registration and annual reporting requirements;
- A legal personality which can enter into legal contracts in its own name, as likely to be required for receipt of corporate donations, and may itself enter into delivery contracts which may be required to support investment activities;
- Protection for charity trustees who do not carry personal responsibility for the affairs of the charity (although they must of course act in accordance with wider legislation); and
- Strong governance arrangements and operations through approved constitution.

22. A CIO avoids:

- Dual registration with Companies House as would be required for a charitable company with duplicate annual reporting requirements;
- Dual annual return to Companies House and Charity Commission;
- Direct liability of trustees where an unincorporated Trust or Association was considered;
- Complex multiple partner agreements where incorporated entities have to act as intermediaries in establishing legal agreements; and
- Risk of incompatibility of charitable structure with criteria/requirements of potential corporate donors.

23. The proposed charity must be separate in law from the Authority. The aims of the charity will be broader than those of the Authority and its reach will extend beyond the (regulatory) boundary of the Peak District National Park, although it is expected that the

money raised would largely be spent within the Park (and most certainly to its benefit). As mentioned above the charitable objects that define the scope of the charity and the governing documents (constitution) would be developed in such a way to maximise their complementarity to the Authority so that the two organisations are mutually supportive. This should ensure that competition and/or duplication are avoided and the interests of the Peak District National Park, the Authority and the public are best served.

### **Governance**

24. The charity will be an independent body, separate from the Authority. The Authority will have no control over the way the charity is governed. It will be responsible for operating its own bank account, completing its own legal and statutory returns and holding its own meetings. It is proposed that, in the first instance, the charity will be based at the Aldern House office. Once the charity is registered with the Charity Commission it will exist as an independent body and the Authority cannot undo the decision to set up the charity. The charity will only cease to be a charity where it is dissolved in accordance with the provisions of its constitution. This is because a CIO's existence as an incorporated body and its status as a charity go hand in hand. On dissolution, the charity would cease to exist. This would be a decision for the trustees of the charity, acting in their capacity as members. On dissolution, any remaining assets would not be returned to the Authority and would have to be used or transferred to another body with similar charitable purposes.

### **Trustees**

25. The charity would be governed by its trustees, proposed to be between seven and nine. They must act only in the best interests of the charity and for the public benefit. They must not allow any external commitments or loyalties to influence their actions as charity trustees. Where this is a possibility, a conflict of interest may arise and must be dealt with in accordance with the charity's constitution and any conflict of interest policy. It is proposed that the trustees would be a mix of PDNPA Members and independent trustees to ensure the independent nature of the charity. However, there must be a majority of independent trustees and it should be noted that the Charity Commission has the power to impose a trustee ratio should it consider necessary to preserve the charity's independence. A majority of independent trustees is necessary to form a quorum in the event that those trustees who are also Members of the Authority are unable to participate in a decision due to a conflict of interest. Therefore, it is important to understand what amounts to a conflict of interest for the purposes of charity law and governance. If the Authority is to have a power to appoint any trustees (which is not ideal from the point of view of the CIO being independent of the Authority) then the number they appoint should be a minority.
26. It is proposed, up to the point of registration, to establish a 'shadow board' comprising Members of the current Charity Working Group (supported by the Director of Commercial Development and Outreach, Head of Marketing & Fundraising, Head of Law and the Fundraising Development Manager). This board would oversee development work including agreeing the charitable objects and activities, agreeing the constitution and agreeing independent trustees. Once the new charity has been set up and registered, the charity's board will take over from the 'shadow board' and be responsible for the running of the charity.

### **Charitable Purposes and Objects**

27. 'Charitable Objects' is the term used to describe and identify the purpose for which a charity has been set up. These objects need to be broad and flexible as, once accepted by the Charity Commission, they are difficult to alter.

28. The Charities Act 2011 defines a charitable purpose, explicitly, as one that falls within 13 descriptions of purposes and is for the public benefit. To best benefit the Peak District National Park, its communities and wider audiences, the proposed charitable objects would be consistent with (but not identical to) the PDNPA Corporate Plan, the PDNP Management Plan and National Park Purposes and Duty.
29. A charity's purposes should make it clear (Charity Commission wording):
- what outcomes the charity is set up to achieve;
  - how it will achieve these outcomes;
  - who will benefit from these outcomes;
  - where the benefits extend to; and
  - clearly demonstrate public benefit.
30. It is proposed that the charitable purposes for the PDNPT in principle should:
- Benefit local communities, visitors and the general public;
  - Build on and enhance the special qualities of the PDNP;
  - Carry out activities that are in line with and supportive of the PDNP Management Plans and PDNPA Corporate Plans;
  - Operate in the wider Peak District i.e. not to be restricted by a precise 'regulatory' boundary; and
  - Have no geographical restrictions on trading.
31. The precise wording of charitable objects will need to be developed further using Charity Commission agreed templates and input from trustees. Greater definition and detail can be then be added when the constitution of the charity is developed. However, in the short term it is proposed that the following are the proposed PDNPT objects (set out under the appropriate Charity Commission headings of accepted purposes in bold):
- A. The advancement of environmental protection or improvement**  
Promote and encourage for public benefit the conservation, protection and improvement of the Peak District National Park's landscapes and cultural heritage.
- B. The advancement of education**  
Promote better understanding of the Peak District National Park, its special qualities and potential benefits.
- C. The advancement of health or the saving of lives**  
Promote opportunities for recreation that are compatible with the place.  
Provide opportunities for contemplation and reflection through contact with nature.  
Assist those less able to enjoy the Peak District National Park.  
Provide facilities for recreation or other leisure time occupations in the interests of the social welfare of individuals who have need of such facilities by reason of their age, disability, financial hardship or social and economic circumstances, or to members of the public at large, with the object of improving their conditions of life.
- D. The advancement of citizenship or community development**  
Provide opportunities for learning through experience and training.  
Support rural regeneration activities compatible with the special nature of the environment.
- E. The advancement of the arts, culture, heritage or science**  
Promote and raise awareness of the Peak District National Park's cultural heritage including, but not limited to, literature and traditions.

### **Operations**

32. It is proposed that initial activity is focused on three activities: profile-raising, campaign creation and partnership building. The PDNPT will need to create a 'public face' in order to invite donations, seek sponsorship and legacies. This will include working with external organisations to identify any complementary activity and potential partnerships.
33. A key activity from the outset will be creating and nurturing a close relationship between the Authority and the charity that will enable and ensure the two organisations remain mutually supportive in purpose and activity, while remaining free to have constructive relationships with other parties.
34. It is proposed that the charity would not – and the objects reflect this – engage in any political campaigning nor focus exclusively on any one aspect or area of the Peak District National Park. Discussions have taken place, and will continue to do so, with the Friends of the Peak District charity to reassure its membership that the proposed activities of the Trust are sufficiently differentiated.

### **Investment**

35. The potential investment by the Peak District National Park Authority is set out in Appendix 3.
36. There has been significant investment of Member and officer time to this point, but no direct costs. It is estimated that over the recommended initial three years of support for the charity, the PDNPA would invest c£150k of staff time (c£50/annum) and c£50k direct costs (c£16.5k/annum). This is likely to be at the top end, particularly if the Authority agrees to the proposed CIO structure which would require lower administration support levels. The direct costs would be funded from budget approved in the Giving Strategy report (March 2016).
37. It was agreed that the charity vehicle would not start with a committed giving proposition. These are very investment heavy in the initial years and require a significant level of brand awareness. The focus will be on discrete appeals/campaigns. For the purposes of planning, it has been assumed there would be initially one major campaign per year of c£40-70k in scale targeting infrastructure/conservation or learning improvements. This suggests the charity could operate in its early stages on a cost:income ratio for staff time which compares very favourably with the current estimated staff cost:income ratio (excluding direct marketing costs) for work on stimulating donations to the Authority.
38. The Charity Working Group recommendation is also based on the planning assumption that if the charity vehicle was able to get away a campaign/year at the scale set out above, the potential for a committed giving scheme would increase alongside the confidence to increase the scale of the appeals and/or create more joint ventures.
39. Finally, the indicative investment levels are just that – designed to enable the Charity Working Group to help Members understand the extent of the Authority's resource risk – as opposed to a fully-costed operational business plan. The Charity Working Group recognised that the reality will be that the officers listed as leading the fundraising will continue to stimulate donations for both entities – in fact all their current work is designed to create the environment for such asks – and as such the cost:income ratios of both should benefit.
40. The initial operating resource requirements will require significant commitment from the Director of Commercial Development & Outreach, Head of Marketing & Fundraising, Fundraising Development Manager and Fundraising Support Officer. In fact, c90% will



be from the Commercial & Outreach Development directorate. Input from other Authority officers would be identified as appropriate. The Fundraising Development Manager would support the board of trustees. There will likely be a commitment of staff time from the Authority CEO, particularly in an ambassadorial capacity. It is likely that, from time-to-time, resources will be needed to buy in expertise in specialist areas.

41. An operational programme of work will be developed by the Director of Commercial Development & Outreach and Marketing & Fundraising Development colleagues, agreed by the trustees and reported to the Authority and ARP Committee as set out previously. There are potential funding pots which may support the charity set up process. These will be explored once the decision to set up the charity has been taken.
42. Support from IT and customer service colleagues has been discussed and agreed. This would include appropriate support covering CRM systems, telephone enquiries, data capture and digital. HR will be capturing the proposed time commitment and responsibilities on the records of appropriate officers.
43. In the longer term staff could be seconded from the Authority to the charity or even employed directly. An appropriate Service Level Agreement could be established to cover charges from PDNPA business support staff. It is possible that when funds allow, staff time and support costs for the administration of the charity could become operating costs funded from income received.

#### **Distribution of Funds**

44. As an independent charity the distribution of funds will be a matter for decision by the Trustees, to fulfil the objects of the charity.
45. The charity would be extremely likely to distribute funds via the PDNPA or other partner organisations as they will be best placed to deliver activities and projects that meet the objects of the Peak District National Park Trust.

#### **Next Steps**

46. Work to be carried out by the Shadow Board:
  - Appoint trustees.
  - Hold a first meeting of trustees, prior to Trust registration to agree charitable objects, constitution, governance documents.
  - Set up bank account.
  - Register with the Charity Commission.
  - Begin work on operational, fundraising and communications plan.

#### **Are there any risks that members should be concerned about?**

##### **Financial:**

47. Risk: Limited short to medium-term risk to the PDNPA's donation levels due to the noise/competition created by the establishment of the charity.  
Mitigation: PDNPA will continue to solicit direct donations in line with current operations.  
Risk rating: Potential Impact – Low; Potential Likelihood – Low
48. Risk: Limited short to medium-term risk to the PDNPA's finances from the pursuing the initiative as it is proposed that the Authority covers set up and initial running costs.  
Mitigation: The potential level of direct costs is relatively low due to the proposed structure of the charity. The costs have already been allocated in the Given Strategy budget (approved March 2015). Expenditure would be subject to standard PDNPA budget scrutiny.

Risk rating: Potential Impact – Low; Potential Likelihood – Low

49. Risk: An independent third party sets up a charity vehicle creating clutter and competition. This has financial risk (lower income and/or poorly directed income) and reputational risk (audience confusion, lack of message management and perceptions of inactivity or even incompetence).

Mitigation: Communications and engagement plan to limit impact.

Risk rating: Potential Impact – High; Potential Likelihood – Medium/Low.

**Reputational:**

50. Risk: Charity vehicle, through it's 'independent status', undertakes activities not aligned to statutory purposes, NP management plan or PDNPA corporate plans.

Mitigation: Proposed governance, objects and the charity's vehicle's own need to develop and sustain a positive reputation.

Risk rating: Potential Impact – Low-Medium; Potential Likelihood – Low.

51. Risk: Lower than expected income levels coupled with potential new entrants and/or greater activity by established players could lead to reputational damage to PDNPA through perceptions of inactivity, lack of strategic thinking, poor asset management.

Mitigation: Communications and engagement plan to limit impact.

Risk rating: Potential Impact – High; Potential Likelihood – Medium.

**Sustainability:**

52. None further than those set out in the original report. The charity would operate within the environmental management framework expected of partners.

**HR & Equality:**

53. There are no HR impacts and no implications on the 9 protected characteristics in the Equality Act 2010 from establishing the charity as the entity would not, at this stage, have nor be recruiting staff.

**54. Background papers (not previously published)**

Commercial Development and Outreach Plan - Reports to Strategic Advisory Group in October and November 2016.

Business Case: Charity Vehicle Establishment – Report to Resources Management Team on 31 January 2017.

Audience Research carried out by DJS Research in 2017/18.

**55. Appendices**

Appendix 1 - Charity Working Group Remit

Appendix 2 - PDNPA-PDNPT Fundraising Process

Appendix 3 - Potential investment

Appendix 4 - FAQs

**Report Author, Job Title and Publication Date**

Simon Malcolm, Director of Commercial Development & Outreach, 17 May 2018