



**PEAK DISTRICT NATIONAL PARK AUTHORITY**

**GUIDANCE ON ARRANGEMENTS**

**FOR APPOINTMENT OF**

**SECRETARY OF STATE PARISH MEMBERS**

## **1.0 Purpose of Guidance**

- 1.1 This document was originally produced in 2015 to provide guidance on the arrangements for appointing Parish Members to the Peak District National Park Authority by bringing together in one place procedures and documentation used since Parish Members were introduced into the Authority in 1995. These arrangements were first used in May 2015 and are reviewed during preparations for filling any subsequent vacancies.

## **2.0 Legislative Background**

- 2.1 Schedule 7 of the Environment Act 1995 provides the current framework for the status and constitution of National Park Authorities. Within the schedule two main categories of members are identified; members appointed by local authorities and members appointed by the Secretary of State. In both cases the act states that the number of members to be appointed to each category will be set out in the relevant order. Schedule 7 then goes on to state that the relevant order should also set out the number of members appointed by the Secretary of State as Parish Members.
- 2.2 For the Peak District National Park Authority the current relevant order is the National Park Authorities (England) Order 2015 in which it is determined that the Authority be made up of 30 Members, comprising of 16 Local Authority Members and 14 Secretary of State Members. 6 of the Secretary of State Members are to be appointed as Parish Members. (This Order replaced the National Park Authorities (England) Order 1996 which established a slightly larger Authority with 2 more Parish Members.)
- 2.3 Although Schedule 7 does set out qualifications for an individual being appointed as a Parish Member neither it or the Order are prescriptive about the arrangements for making the appointment. In Circular 12/96 the Secretary of State stated that he looked to parishes to maintain a local mechanism to select candidates commanding general support. While the circular did not propose to determine a mechanism, it suggested that the Secretary of State would look to a result which engaged the full range of areas within the Park to be represented. This approach was supported again in the 2010 National Parks Circular which suggested that parish councils should continue to maintain local mechanisms. It is within this context the current arrangements were developed.

## **3.0 Arrangements in the Peak District National Park**

- 3.1 There are 112 parish councils and parish meetings within the boundaries of the Peak District National Park. In accordance with the provisions of the Environment Act, the first appointment of parish members to the Authority in 1995 was determined through an election process handled by the Derbyshire Association of Local Councils and the initial Parish Members appointed.
- 3.2 Following feedback on the 1995 ballot the Parish Forum made a request that the Authority handle the process for the election of parish members in 1999. The Authority agreed to fund this and arrangements were made for the Electoral Reform Ballot Services (ERBS) to administer the election on the Authority's behalf. It was agreed that using the ERBS ensured that the election was clearly independent of the Authority. On the whole this arrangement worked well and with minor adjustments was used for the 1999, 2003, 2007 and 2011 ballots and any bye-elections. Under these arrangements the Democratic and Legal Support Team at Aldern House was responsible for supporting the process and commissioning ERS. (As ERBS are now known.). However, before the 2015 ballot the Parishes Forum suggested that while the process was widely accepted as fair, it was

believed that it could be more open and transparent, particularly when it came to drawing lots in the event of a tied vote.

- 3.3 In previous years ERS had dealt directly with parishes in issuing and receiving the nomination forms, election statements and ballot papers, counting the votes and declaring the result. The only involvement of the Authority once ERS had been commissioned to carry out a ballot and the process and documents had been prepared, had been to check the validity of nomination forms and election statements and advise the members appointed following the ballot. From the May 2015 Parish Member Ballot the whole process was managed and carried out by the Democratic and Legal Support Team at the National Park Authority, with the process overseen by representatives of the Peak Park Parishes Forum (PPPF).

#### **4.0 Appointment of Secretary of State Parish Members**

- 4.1 Parish members are formally appointed to the NPA by the Secretary of State.
- 4.2 Paragraph 3(2) of Schedule 7 to the 1995 Environment Act requires parish members to be either a member of a parish council, or chair of a parish meeting, for a parish with land in the National Park. The choice of parish members is made by the parishes themselves and there is no prescribed procedure – local arrangements are made in each National Park.
- 4.3 The National Park Authorities (England) Order 2015 provides that six Parish Members will be appointed to the Peak District National Park.
- 4.4 The six Members will be appointed following a ballot of all active Parish Councils and Parish Meetings for a parish with land in the National Park. The ballot will take place every four years immediately following normal Parish Council Elections

#### **5.0 Term of Office for Parish Members**

- 5.1 The term of office for Parish members is set out in the Environment Act 1995 (and amended by Natural Environment and Rural Communities Act 2006).
- 5.2 If a Parish Member is appointed as a Member of the Authority because of their membership of a Parish Council they are appointed as a Member from the time of appointment until they cease to be a member of their Parish Council. This is normally for four years when the next Parish Council elections take place and their appointment ends.
- 5.3 If a Parish Member is appointed as a Member of the Authority because they are Chair of a Parish Meeting they hold office until they cease to be chairman of that meeting. This means that if a Chair of a Parish Meeting is appointed to the Authority the Secretary of State will automatically make an annual appointment once he has received confirmation that the relevant Member has been reappointed as Chair of their Parish meeting. The Secretary of State will not reappoint in the year of a parish ballot until the outcome of the ballot is known.
- 5.4 Following a normal Parish Council Election a person who is appointed as Parish Member of the Authority continues to be a Member for either three months after retiring as or, if earlier, when the Authority receives notice of a proposed replacement appointment. This means that, even if they are not subsequently reappointed as a Parish Councillor or Chair of a Parish Meeting, Parish Members can continue as active Members of the Authority until the outcome of the parish ballot is known and the Secretary of State has confirmed the new appointments.

5.5 The Environment Act allows the Secretary of State to terminate a Parish Member appointment earlier but only in certain circumstances – This would usually be due to either an order which alters the composition of the Authority or its boundaries or because of the terms of a Member’s appointment as set out in a National Park Circular or other guidance from the Secretary of State. An appointment would also end early if a Member’s circumstances changed so that they became disqualified from being a Member of the Authority

5.6 In accordance with the provisions of section 85 of the Local Government Act 1972 a Parish member would cease to be a member of the Authority if they failed to attend any meeting of the Authority or its Committee within a period of 6 months.

## **6.0 Qualifications for appointment of a parish Member**

6.1 To be appointed as a Parish Member a person must be either

- (a) A member of the parish council for a parish the whole or part of which is comprised in the National Park.
- (b) The chairman of the parish meeting of a parish which does not have a separate parish council and is wholly or partly within the National Park.

6.2 A person is disqualified from being a member or if appointed remaining as a member if they hold any paid office or employment appointments made or confirmed by:

- (a) The National Park Authority or any Council by whom a local authority member is appointed or any committee or sub-committee of the Authority or any appointing Council or a joint committee on which either are represented;
- (b) Any Parish Council or Parish Meeting the whole or part of which is comprised within the national park, or any committee or sub-committee of the Parish Council or Parish Meeting or a joint committee on which either are represented;
- (c) A company controlled by the Authority;
- (d) Any person who holds an office or employment which disqualifies them from becoming a member of the Authority.

6.3 A person is disqualified from becoming or remaining as a Member of a local authority (whether by election or otherwise) or remaining a Member of a local authority if he holds a politically restricted post under that local authority or any other local authority in Great Britain.

6.4 The Secretary of State for the Environment has stated in the 2010 National Parks Circular that he does not propose to appoint as a Parish Member anyone who is a serving Councillor of a County or District Council appointing Members to the National Park Authority.

6.5 Under the S.52 Local Government Act 2000 a person appointed as a Member of a National Park Authority may not act in that office unless that person has given the Authority a written undertaking that in performing their function as a Member they will observe the Authority’s Code of Conduct. The Authority’s code of conduct requires that this be completed and returned within 28 days of appointment.

## **7.0 Arrangements for a Ballot**

### **7.1 Overview**

7.1.1 The National Park has been split into 3 constituencies with Members appointed to each constituency as follows:

Moorlands Area	1 Member
High Peak and Metropolitan Area	1 Member
Dales Area	4 Members

7.1.2 The Parishes which make up each constituency are as set out in appendix 1.

7.1.3 The National Park Authority will usually write to all Parish Clerks during April in the year of a ballot. Due to changes implemented by the PPPF for 2023, to give more notice of the process to Parish Councils, it was agreed to write to all Parish Clerks at the end of February. The letter alerts them to the appointment process and procedures and the action that they will need to take following the May elections regarding nominations and voting. The letter also includes a timetable for the forthcoming ballot highlighting that Parish Councils/Meetings need to be mindful of how the deadlines fit in with their scheduled meetings and if necessary give delegated authority to their Clerk to respond following consultation with Members. A template for this letter is set out in appendix 2.

7.1.4 The Authority's Democratic and Legal Support Team based at Aldern House will handle the full election process on behalf the Parishes Forum in accordance with the arrangements set out in this document. The Democratic Services Manager will oversee the process and be responsible for liaising with the Forum on changes and updating this document.

## **7.2 Nominations**

7.2.1 One week before the Parish Council elections the Authority will issue one nomination form by post direct to each parish using the information supplied by the National Park Authority. A copy the nomination form is attached as Appendix 3.

7.2.2 If needed replacement nomination forms will be available from the Authority up to 5pm on the Friday before the close of nominations. All requests for replacement forms must be made in writing stating the name of the person making the request, the Parish Council/Meeting they represent, their position on that council and the reason for requesting a replacement.

7.2.3 All the nomination, eligibility and disqualification rules will be set out in the nomination form.

7.2.4 Each Parish Council/Meeting is entitled to nominate one candidate. Candidates may, with their consent, be nominated by any eligible parish council or parish meeting. The nomination form must be signed by both a representative of the nominating Parish and the candidate.

7.2.5 Each candidate may include with the nomination form an election statement describing why they think they should be elected. The statement, which must not exceed 150 words, will be reproduced and circulated to voters with the ballot papers. The Authority reserves the right not to publish, or to edit, any election statement that exceeds the word limit, is factually inaccurate or contains libellous material.

7.2.6 If an election statement is not provided by the close of nominations the words "statement not received" will be published in the space which would have contained the election statement.

- 7.2.7 Completed nomination forms and the candidates' election statements are returned by the parishes directly to Democratic and Legal Support at Aldern House using the envelope provided. The deadline for completed nominations was amended by the PPPF in 2023 to try to give more time to Parish Councils, to complete and return the forms, and to meet the result deadline given by Defra for 2023. Therefore, the deadline will be 12.00 noon on the first Wednesday 2.5 weeks after the date of the Parish Council Elections. Nominations received after the deadline will not be accepted.
- 7.2.8 After the close of nominations the Democratic Services Manager will check and verify that the nominations are valid and that the statements are of the correct length and do not contain any factual inaccuracies or libellous material. Any significant amendments to the statements are made by the Authority following consultation with the candidates.
- 7.2.9 The Authority will also check details of all the relevant parish election results to verify the validity of the candidates nominated.
- 7.2.10 In the event of the number of valid nominations received for a constituency being equal to the number of places available for that constituency there will be no need for a ballot and the names of those nominated will be passed directly to the Secretary of State.
- 7.2.11 In the event of no valid nominations being received for a constituency the National Park Authority will consult with the Peak Park Parishes Forum to ask them to nominate an individual to fill the vacancy. From 2023 if this issue occurs the Forum intend to appoint the highest placed unsuccessful candidate from the other constituencies to the vacancy after the ballot has taken place.

### **7.3 *Ballot***

- 7.3.1 If the number of valid nominations received for a constituency exceeds the number of places available for that constituency a ballot will be held to determine which of the candidates will be appointed by the Secretary of State.
- 7.3.2 The ballot will take the form of a postal ballot with one ballot paper and one set of candidates' statements usually sent to each parish 2 weeks following the close of nominations at the latest. The Authority's Monitoring Officer or their Deputy will issue the ballot papers which, unless advised otherwise, will be sent to the Clerk to the Parish Council/Meeting by first class post. For 2023, due to the changes agreed with PPPF, the ballot papers will be sent within 2 days of the close of nominations.
- 7.3.3 A separate ballot paper will be prepared for each constituency. The ballot paper will include the names of all eligible candidates from that constituency whose nominations were received before the close of nominations. Candidates will be listed in alphabetical order by surname on the ballot paper. A candidates first name will also be listed.
- 7.3.4 Each Parish Council/Meeting will have one vote for each Member to be appointed from their constituency.
- 7.3.5 Each ballot paper will be accompanied by the Election Statements for the candidates. As well as the statement itself the following information will be included:
1. Title (Mr, Mrs, Ms, Dr etc.)
  2. Name of Candidate
  3. Name of the candidate's Parish Council or Parish Meeting
  4. Name of the Parish Council or Meeting whose nomination for that candidate is first received.

The candidates' statements will be presented in the same order as they appear on the ballot paper. An example of the ballot paper is set out in appendix 4.

7.3.6 The date for completed ballot papers will usually be 5 weeks after the close of nominations (3 weeks after the ballot papers are issued). For 2023, due to the changes agreed with PPPF, the date for receipt will be 3 weeks after close of nominations and 2.5 weeks after they have been issued. Ballot papers should be returned to the Authority's Monitoring Officer at Aldern House using the pre-paid envelope supplied with the ballot paper. On receipt the envelopes will not be opened and placed into a sealed ballot box.

7.3.7 If a ballot paper is lost or spoiled replacement ballot papers will be issued up to the close of the poll but any requests must be made in writing and be signed by the person appointed as Chair of the Parish Council/Meeting

#### **7.4 Count**

7.4.1 On the day following the close of poll, the Authority's Monitoring Officer or their Deputy will open the ballot box and make arrangements for the contents to be opened and counted.

7.4.2 The count will be held in the National Park Authority's Offices at Aldern House commencing at 10:00am. The following will be invited to observe the opening of the ballot box and count:

- All candidates
- A Member of the Peak Parish Forum Committee
- The Secretary of the Peak Parish Forum Committee
- The Chair of the National Park Authority or their nominee

7.4.3 The candidate with the highest number of votes will be appointed. In the event of there being a tied vote the successful candidate will be selected by drawing lots. In the case of a constituency with more than one appointment the candidate with the highest number of votes will be appointed, followed by the candidate with the second highest and so on until all the places are filled. Again, in the event of there being a tied vote the successful candidate will be selected by drawing lots. The drawing of lots will take place immediately after the count.

7.4.4 Where there have been no valid nominations received for a constituency from 2023 the Forum intend to appoint the highest placed unsuccessful candidate from the other constituencies to the vacancy after the ballot has taken place. In the event of there being a tied vote for the highest placed unsuccessful candidate this will be resolved by drawing lots. If there is more than one constituency without valid nominations the allocation of highest placed unsuccessful candidates from another constituency will be allocated by drawing lots. The drawing of lots will take place immediately after the count.

7.4.5 Following the count the Authority will advise the Secretary of State of the outcome of the ballot and, if they were not at the count, contact the successful candidates by telephone on the same day where possible. If any decide not to take up the position then or following the appointment letter it will be offered to the next runner up.

7.4.6 The results of the ballot will also be sent to the Peak Park Parishes Forum, all candidates and Clerks to Parish Councils/Meetings and published on the Authority's website.

#### **7.6 Casual Vacancies**

- 7.6.1 There will be circumstances where a casual vacancy may arise between the normal four-year ballot.
- 7.6.2 If a vacancy arises within one year of any parish ballot for the relevant constituency (including a by-election), the candidate with the next highest number of votes will be offered a position on the Authority provided he or she received at least 50% of the vote of the winning candidate (or if more than one, the average votes of the winning candidates). Where the vote was tied the candidate with the highest number of votes will be determined by drawing lots. If the next candidate does not accept the offer, the person with the next highest number of votes will then be offered the position and so on. In the event of there being no other candidate willing or qualified under the 50% rule to be appointed, a fresh election will be conducted following the process set out earlier.
- 7.6.3 If a vacancy arises after one year of any parish ballot for the relevant constituency, a fresh election will usually take place following the process set out earlier. However, if the vacancy arises within six months of a normal election the vacancy will not be filled.
- 7.6.4 The term of office for any Parish Member appointed following a casual vacancy will be up to the next Parish Elections, in accordance with the provisions of the Environment Act.

## **8.0 Status of these arrangements**

- 8.1 The arrangements included within this document have been developed and agreed following consultation with the Peak Park Parishes Forum and its Members and will be used to inform how the Authority will support arrangements for Secretary of State appointments. All Parish Councils and Parish Meetings within the National Park have been consulted on these arrangements.
- 8.2 Any changes to the process will be agreed following consultation with the Peak Park Parishes Forum and Parishes within the National Park, however, possibly following changes to legislation and the publication of statutory instruments, circulars and guidance by the Secretary of State, there may be occasions when changes have to be made and neither the Forum or the Authority will have any discretion on implementation.
- 8.3 The changes to this process for 2023 were agreed by the PPPF in consultation with the National Park Authority. The PPPF consulted and informed Parishes of the changes for 2023. For 2023 Defra made changes to how they receive notification of the Members to be appointed following the ballot and requested that all names for appointment are sent to Defra by 16<sup>th</sup> June 2023. The PPPF agreed to amend the timetable for the ballot process to meet the Defra deadline.