

Natural England - Board Retained Authority

1) Introduction

The Board Retained Authority document is one of the core parts of Natural England's governance. Its purpose is to give clarity on the decisions that are retained by the Board. Hence this document shapes the wider system of delegations operated within the organisation.

The Board Retained Authority document should be read in conjunction with the Natural England Framework Document, the Board Code of Conduct, Board Standing Orders and the Terms of Reference of the Board's Committees, including the:

- Audit, Risk and Assurance Committee (ARAC)
- People and Remuneration Committee (RemCom)
- Natural England Science Advisory Committee (NESAC)
- Natural England Landscape Advisory Panel (NELAP)
- National Nature Reserves Declarations Committee (NNRDC)

This document is published to give external clarity about the role and remit of the Board. Some authority is delegated to the Board's Committees in accordance with their Terms of Reference. All other authority is delegated to the Chief Executive and distributed through the organisation according to the Executive Governance Documents.

2) The wider Governance of Natural England

Natural England is a body corporate and a Non-Departmental Public Body (NDPB) sponsored by Defra. Natural England was established on 1st October 2006 under the Natural Environment and Rural Communities Act 2006.

Section 2 of the Natural Environment and Rural Communities Act 2006 ('NERC Act') states that Natural England's general purpose is to:

"ensure that the natural environment is conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development."

As an NDPB, Natural England has a separate legal identity and is expected to operate at arms' length from government, carrying out its statutory functions with technical expertise, impartiality and transparency. In addition to Defra, Natural England also works with and delivers duties on behalf of a range of other UK Government departments.

Natural England is led and directed by a Board whose Chair and Members are appointed by the Secretary of State (NERC Act, Schedule 1, Clause 3(1)). As set out in the [Natural England Framework Document](#), the Board's responsibilities include:

- establishing and taking forward the strategic aims and objectives of Natural England consistent with its overall strategic direction within the policy and resources framework determined by the Secretary of State;
- setting the long-term direction for the Executive team and the tone and pace needed to deliver the agreed strategies and plans;

- agreeing an Action Plan for each year that sets out Natural England's specific delivery commitments and approving the appropriate allocation of resources;
- receiving and reviewing regular performance information concerning the ongoing delivery of Natural England against its agreed Action Plan;
- ensuring that the responsible Minister is kept informed of any changes which are likely to impact on the strategic direction of Natural England or on the attainability of its targets, and determining the steps needed to deal with such changes;
- ensuring that effective arrangements are in place to provide assurance on risk management, governance and internal control and demonstrating high standards of corporate governance at all times; and
- ensuring that any statutory or administrative requirements for the use of public funds are complied with; that the Board operates within the limits of its statutory authority and any delegated authority agreed with Defra, and in accordance with any other conditions relating to the use of public funds; and that in reaching decisions, the Board takes into account any relevant guidance issued by Defra or by the Government more broadly;
- approval of all matters not delegated to the Chief Executive under the Natural England Financial and Non-financial Schemes of Delegation.

3) The underpinning principles and structure of the Board Retained Authority document

The general model adopted is that Board retains decisions where:

- This is required to deliver on specific roles set out in the Natural England Framework Document
- There have been formal objections to significant regulatory decisions made by Natural England at Executive level, notably for the designation of Sites of Special Scientific Interest

Some Board Committees are advisory and Board retains the decision-making powers. Where decisions are delegated to Board Committees, these are specified in their Terms of Reference. Apart from those matters where Board or Board Committee decisions are required, the overall model is that the Board delegates a range of functions to the Chief Executive who in turn delegates these functions to individual officers within the organisation as set out in the Natural England Schemes of Delegation. Agreed delegations may be reviewed and changed by the Board at any time.

This document presents the Board retained authorities in two sections:

- **Corporate decisions**
- Decisions related to **specific legislative or regulatory powers** and duties given to Natural England (for example via legislation)

Over and above the detailed cases set out in the following section, we observe the broad principle that where a decision relates to a novel, contentious or politically sensitive issue that carries significant legal or reputational risk for Natural England, the matter will be escalated via the management chain to the Board.

4) Retained Corporate Decisions

Governance (See Non-Financial Schemes of Delegation for detail (Part 28))

- Approval of core organisational documents (with the exception of the detailed Schemes of Delegation)
- Approval of Board Committee appointments and Terms of Reference

Strategy and Business Plans

- Approval of Corporate Strategy documents
- Approval of the Annual Action Plan
- Approval of written high level legally binding agreements with public sector bodies or not for profit organisations which relate to the whole of Natural England involving significant impact on Natural England's finances.

Financial

- Approval of the Annual Budget
- Approval of the Annual Report and Accounts for laying before Parliament
- Approval of significant, long-term financial commitments

Appointments (See Non-Financial Schemes of Delegation for detail (Part 24 and Part 25)).

- Appointment and remuneration of the Chief Executive

In addition to the above, the Audit and Risk Committee provides oversight of the organisational risk and internal control framework on behalf of the Board.

5) Retained regulatory/legislative decisions

It is important that the decisions are taken at the right level, following appropriate consultation, in order to safeguard Natural England's position in the event of a challenge, appeal or prosecution.

Consultations (See Non-Financial Schemes of Delegation for detail (Part 1))

- Advice to Secretary of State on Schedules for animals and plants
- Advice to Secretary of State on planning/development and other issues affecting the accomplishment of National Park and AONB purposes
- Response to consultation from Secretary of State on order for AONB Conservation Board
- Sign off any other advice or correspondence to Secretary of State (Chair)
- Natural England run External Consultation projects

Sites of Special Scientific Interest (SSSIs) - *Wildlife & Countryside Act 1981 as substituted by Schedule 9 to the Countryside & Rights of Way Act 2000* (See Non-Financial Schemes of Delegation for detail (Part 3))

- A central role operating as a point of appeal to objections, and reputational risk, when Natural England notify land by special interest for flora, fauna geological or geographical features.

- A role as approver of some SSSI notification procedures (such as withdrawing a notification or withdrawing a variation to an existing SSSI)

Marine Conservation Zones – *Marine and Coastal Act 2009* (See Non-Financial Schemes of Delegation for detail (Part 22))

- Confirming alterations to existing Marine Conservation Zones prior to advising Ministers in cases with unresolved objections or representations.

National Nature Reserves (NNR) - *Wildlife & Countryside Act 1981* (See Non-Financial Schemes of Delegation for detail (Part 6))

- Acquisition of a whole new Natural England NNR

Habitat Regulations - *The Conservation of Habitats and Species Regulations 2017 (as amended)* (See Non-Financial Schemes of Delegation for detail (Part 7))

- Power to make European Site byelaw i.e. to approve a Natural England recommendation of byelaw confirmation to the Secretary of State.

Land use Planning and Marine Planning & Licensing - *Town and Country Planning Act 1990 (as amended), Purchase Act (2004), Planning Act 2008.* (See Non-Financial Schemes of Delegation for detail (Part 10))

- Approval of Natural England input to development of government policy where positioning of the organisation has significant reputational/organisational risks to Natural England.

Compulsory purchase - *National Parks and Access to the Countryside Act 1949.* (See Non-Financial Schemes of Delegation for detail (Part 8))

- Approval for compulsory purchase.

National Parks - *National Parks and Access to the Countryside Act 1949, Wildlife and Countryside Act 1981, Environment Act 1995* (See Non-Financial Schemes of Delegation for detail (Part 11))

- A central role to assess, prioritise and recommend the designation of National Parks to conserve and enhance the natural beauty, wildlife and cultural heritage and provide opportunities for open-air recreation.
- Recommending candidates for (i) National Park Authorities and (ii) as Chief Officer for National Parks.

Areas of outstanding beauty - *Countryside and Rights of Way Act 2000* (See Non-Financial Schemes of Delegation for detail (Part 12))

- A central role to assess and recommend the designation of an area of outstanding natural beauty for the purpose of conserving and enhancing the natural beauty of the area.

Access - *Marine and Coastal Access Act 2000, National Parks and Access to the Countryside Act and Countryside and Rights of Way Act 2000* (See Non-Financial Schemes of Delegation for detail (Part 13))

- Natural England is the access authority for Open Access, Coastal Access and National Trails. A nominated Board member quality assures specific revisions to CROW maps in accordance with approved methodology.

National Trails - *National Parks and Access to the Countryside Act* (See Non-Financial Schemes of Delegation for detail (Part 13))

- Proposal to Secretary of State for a new, or to vary an existing, National Trail.

International site designation - *Habitats Directive / Wild Birds Directive* (See Non-Financial Schemes of Delegation for detail (Part 21))

- Following consultation, approving Natural England advice (with or without modifications) and reporting on the consultation where objections or representations are unresolved.

End.