

# Consultation on changes to National Park governance

March 2012

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## Introduction

1.1 The Government's "Programme for Government", published in 2010, gave a commitment to "... *review the governance arrangements of National Parks in order to increase local accountability*".

1.2 That commitment was honoured by a public consultation which ran from 9 November 2010 until 1 February 2011. It was supported by the National Park Authorities (NPAs) who actively encouraged local participation in the review and made a number of recommendations for improvement. The Government published its response on 13 September 2011 and a copy of that response can be found on Defra's website at <http://archive.defra.gov.uk/corporate/consult/nationalpark-governance/nationalpark-governance-sumresp.pdf> .

1.3 The Government has made clear that it wishes to retain an independent authority, as currently exists, for each of the National Parks and the Broads. Furthermore, it intends that these authorities should continue to be the local planning authority for their areas. The aim of the governance review was rather to increase their local accountability.

## Scope

2.1 The outcome of the governance review was a wide range of improvements in the way that NPAs operate. Some of these relate to individual NPAs and some are general; some can be carried out under existing powers and others need new legislation. Others build on existing good practice by NPAs.

2.2 In particular, there are five areas of development requiring changes to the primary legislation which the Government proposes to make by use of the Order-making power at section 3 of the Public Bodies Act. Such Orders require a preliminary consultation.

2.3 The purpose of this document is therefore to invite comments on the proposed changes to primary legislation which the Government is minded to make through a Public Bodies Act Order. All responses, including those which propose an alternative to the Government's preferred option, will be given due consideration.

2.4 The proposed changes are:

- making it possible for National Park authorities to include some directly elected members
- removing the need for the Secretary of State to appoint the parish members
- relaxing the political balance requirement on local authorities when appointing their members to a National Park authority
- making it possible to allow parishes in subsequently specified National Parks to choose non-councillors for their seats
- applying a maximum length of service of 8 years

2.5 This paper addresses the changes which would be made to primary legislation. So on direct elections it addresses the principle of introducing direct elections and the key features which need to be specified in primary legislation (such as who could vote and who could stand for election).

2.6 Because it deals with the primary legislation, which sets the general framework but does not deal with individual NPAs, this paper does not specify any changes for particular NPAs such as:

- 1) which National Parks will have the option of non-councillor parish members (the Government has said that it will make this change only in those Parks where the National Park Authority wishes it).
- 2) changes which are achievable under the existing legislation (In its announcement, the Government supported the proposals from Dartmoor, Exmoor, and the Lake District NPAs to change their membership; it also noted Northumberland's proposal but asked them to consider a larger reduction). All these changes are within the current scope of the 1995 Environment Act and will be separately consulted on during 2012, prior to laying a Statutory Instrument before Parliament which should take effect from 2013.
- 3) the introduction of directly elected members to individual NPAs. The Government has already made clear that it is minded to introduce direct elections in two NPAs, namely the Peak District and the New Forest. But the introduction of directly elected members onto those authorities (and the consequential changes to the existing structure) would be made by subsequent SIs under the 1995 Act, which would be preceded by their own consultation during 2012.
- 4) detailed local operational issues relating to the elections.

## Direct Elections

3.1 Ever since the legislation enabling the creation of independent National Park authorities was being enacted in 1995, there have been calls for some members to be directly elected, to increase local accountability. These views were expressed to Defra again, particularly in some areas, through the National Parks Governance Review consultation which closed on 1 February 2011. The Government has therefore concluded that the time has now come to explore that option more thoroughly in England. It therefore proposes to bring forward legislation to allow for the possibility of direct elections to the National Park authorities and the Broads Authority, and then to apply that in two NPAs.

3.2 Schedule 7 to the Environment Act 1995 currently sets out three categories of members: local authority members, parish members, and 'national' members (appointed by the Secretary of State for Environment, Food and Rural Affairs), which together comprise the membership of any NPA. The Schedule also states that in each Park, the local authority and parish members should outnumber the 'national' members, effectively giving 'local' members the majority. Whatever the category of member, they are appointed to support the achievement of National Park purposes.

3.3 To allow for the possibility of directly elected members, we propose to make an Order (under the Public Bodies Act 2011) to change the Environment Act 1995 to add a possible fourth category of member – those that are directly elected.

3.4 Adding a fourth, optional, category of member to the Environment Act 1995 will not automatically *require* Parks to have directly elected members, just *allow* for them to have them. A Statutory Instrument, with associated public consultation and approval of Parliament, would still be required before any particular Park could have directly elected members introduced. The Government proposes that the existing categories of national, local authority and parish members, should all remain mandatory.

3.5 As the Broads Authority was created under separate legislation to the NPAs, to create a parallel provision we will also seek a legislative opportunity to amend the Norfolk and Suffolk Broads Act 1988. Again, this will provide a possible new category of member – those that are directly elected.

**Q1. Do you agree that we should legislate to allow for the possibility of directly elected members to English National Park authorities and the Broads Authority?**

**If you disagree, is this because you believe:**

- a) the Parks already have sufficient local accountability,**
- b) other – please explain.**

3.6 Responses to questions 2-10 below will be taken into account if the Government proposes to amend legislation to enable direct elections to National Park authorities, having given full consideration to the responses to question 1.

3.7 Where directly elected seats are being added to a NPA, the question arises of whether that will have any implications for the existing seats. This will be addressed in more detail in the next consultation, when the Government makes specific proposals for the New Forest and the

Peak District. However it may be helpful to give an indication of the Government's general thinking at this stage which is as follows:

- direct elections should not lead to an increase in the overall size of Authorities, as that would be inconsistent with the moves towards smaller authorities over recent years (and indeed some NPAs are reducing again, following the Governance Review);
- as locally accountable (i.e. local authority and parish) members already hold a majority over 'national' members; and as the directly-elected members will reflect a local, rather than a national choice; the arrival of directly elected members should not lead to any reduction in national seats;
- as the existing categories of seat have all proved their worth since independent NPAs were established in 1997, the mandatory requirement for an NPA to include national, local authority, and parish seats should be retained

3.8 The logic of this approach is that, in the next consultation, the Government will be proposing changes for the New Forest and Peak District which involve removing some, but not all, of the local authority and parish seats so as to match the number of new, directly-elected seats. **Also subject to further consultation will be the actual number of members to be directly elected to any particular Park.** However, our current thinking is to try an approach in the New Forest and Peak District view in which the directly elected members form about 20% of the membership.

**Q2. Do you agree with the principle of accommodating directly elected members into an Authority by making a corresponding reduction across the local authority and/or parish seats, to maintain the overall size?**

**If you disagree, is this because you believe:**

- a) an authority's membership should be increased to accommodate any directly-elected members,**
- b) the category of 'national' members should be used as well as local authority and parish members to accommodate directly-elected members,**
- c) other – please explain.**

3.9 We also propose subsequently to apply the amended legislation in two NPAs, namely the New Forest and the Peak District NPAs. This will allow experience to be gained of the operation of direct elections and will allow evidence to be gathered in England (to supplement that coming from the rather different Scottish context), to establish whether direct elections enhance people's engagement with the National Park and sense of an NPA's accountability.

3.10 The detail of the electoral process will be specified later, in secondary legislation, but we are also setting out the broad approach in this document because we think that gives a useful context for deciding on the principle of direct elections. We envisage the New Forest and Peak District elections would be held in May 2013, using the existing procedures for the conduct of local elections with the use of polling stations and proxy/postal ballots. We think this gives voters flexibility and avoids having to collect signatures and date of birth forms from those not already registered for postal votes, which are required to carry out the postal voting checks

under the Electoral Administration Act 2006. Members would be elected for a four-year term (consistent with the terms of other members).

**Q3. Do you agree with the general approach for these elections described in paragraph 3.10?**

**If you disagree, please explain your reasons.**

3.11 An election in May 2013 would also give the option (for much, but not all of the National Park area) of combining it with the shire county elections scheduled for that time.

3.12 Based on current assumptions, the estimated cost of holding the 2013 elections in the New Forest and the Peak District is expected to be in the range £100,000 - £200,000 (with the exact figure depending on the level of turn-out and the extent to which polling stations can be operated jointly with the shire county elections in that year). We estimate that an all postal ballot would be higher (up to £300k) but for other reasons explained in the next section we are not proposing all-postal elections. (By way of a benchmark, the average maximum recoverable amount which Returning Officers can reclaim from the consolidated fund for a UK Parliamentary election is around £130,000 per constituency). Defra will meet the costs of these two initial elections, and any by-elections that may arise within the first four year period. If elections were subsequently to be repeated, or extended to other NPAs, then those costs would be considered in the next Spending Review which will address public spending from April 2015 onwards.

**Q4. Do you think that any direct elections to National Park authorities and the Broads Authority should be:**

- a) combined with other elections where practicable,**
- b) held separately,**
- c) other – please explain.**

3.13 In order to gather credible data on the efficacy of direct elections we would undertake a concurrent evaluation to assess their benefit. This would involve gathering baseline data before the pilots begin, drawing on results from resident surveys, continuing with periodic data collection during the pilot, with an evaluation and recommendations being made before decisions need to be made in respect of 2017 elections. This would help us to consider whether direct elections are beneficial enough to roll-out to some other, or all Parks, or whether the pilot should simply come to an end.

**Q5. Do you agree that we should trial direct elections to evaluate their efficacy before taking a view as to whether they should be rolled out across other National Park Authorities and the Broads Authority?**

**If you disagree, is this because you believe:**

- a) direct elections should be implemented without piloting,**
- b) other – please explain.**

3.14 There are several key aspects of this proposal for which changes to the Environment Act 1995 are required, whilst other details of local application are best considered once the key features have been established. At this point in time we are only seeking views on setting the legislative framework – all local details would be dealt with as part of specific public consultation

(which would be held shortly after this consultation has closed) relating to the initial introduction of directly-elected members in the New Forest and Peak District.

3.15 We propose that the mapped boundary of any given Park or the Broads should also be the administrative boundary for the purpose of direct elections, with only those registered to vote for local elections at an address within the Park being eligible to vote.

3.16 It is intended to use first-past-the-post as the electoral system, as this fits with how local elections for members of governing bodies such as parishes and councils are already conducted.

**Q6. Do you agree with these proposals on eligibility to vote and the electoral system?**

**If you disagree, please explain your reasons.**

3.17 The question of who may stand for election is separate from that of who may vote and there is no binding precedent on whether candidates have to live within the area for which they seek election. We are therefore minded to place no geographic limitations on where candidates can live. We believe that:

- this provides for a broader pool of candidates from which to select members, and
- the electorate is best placed to decide, through the ballot box, whether someone living outside the electoral area can adequately represent their interests.

**Q7. Do you agree that we should place no geographic limitations on where a candidate for election to a National Park Authority can live?**

**If you disagree, is this because you believe:**

- a) candidates should live within the Park,**
- b) other – please explain.**

3.18 There are some existing statutory restrictions on who may serve as a member of a National Park Authority (for example; MPs; employees of the NPA; people holding a politically-restricted post within local government are all ineligible) and those general restrictions would also apply to the directly elected members.

3.19 The question then arises of whether any rules should be put in place to avoid overlap between the categories of member (as is currently the case for parish members). For example, should serving county/district/unitary councillors on a local authority which appoints to the NPA be excluded from standing for the directly elected seats (as they already have an avenue open to them to secure a seat on the NPA)? Should parish councillors/chairs of parish meetings (within the Park) be excluded? Should anyone who has previously/recently served as a member be excluded? Applying restrictions of this type would promote a broader mix of members but would also impinge on the electorate's freedom of choice.

**Q8. Do you think that any particular restrictions should be placed on who can stand for directly elected seats (over and above the general restrictions applying to all members)?**

**If so, please explain what those restrictions should be.**

3.20 To help ensure electoral nominees have sufficient support to run for membership, we also propose that any nomination for candidacy must be 'subscribed' (supported in writing) by 10 people living within that Park, who are eligible to vote in such an election.

**Q9. Do you agree that any nomination for candidacy to become a National Park member must be subscribed by 10 people eligible to vote in such an election?**

**If you disagree, please explain your reasons.**

3.21 In order to ensure people across any Park receive adequate representation through direct elections, we are minded to provide that each Park will be divided into wards (the exact geography of which would be subject to consultation prior to any order giving an NPA directly elected members) with the number of wards corresponding to the number of members to be directly elected.

3.22 Consequences of "warding" the election are:

- in the event of a directly elected member needing to resign their post early, a by-election to find a successor would be limited to that particular ward, rather than having to be undertaken across an entire Park. This would not only ensure continuity of local representation, but also keep ad hoc electoral administrative costs to a minimum.
- dividing the Park into wards is likely to increase the cost and administration for Returning Officers and polling staff to some degree. Also, if the number of members to be directly elected were to be changed, the number and boundaries of wards within a Park would have to be changed to reflect this, making the statutory instruments more complicated.

**Q10. Do you agree that, for the purposes of direct elections only, a Park should be arranged into wards, corresponding to the number of members to be directly elected?**

**If you disagree, is that because you believe:**

- a) the poll should be 'Park-wide',**
- b) there should be multi-member wards,**
- c) other – please explain.**

## Secretary of State appointing parish members

4.1 There are currently three types of appointment to NPAs (as described at para 3.2 above).

4.2 The number of parish members on each NPA is as follows:

Dartmoor	4
Exmoor	4
Lake District	4
New Forest	4
North York Moors	4
Yorkshire Dales	4
Northumberland	6
Peak District	6
South Downs	6

4.3 The legislation states that:

“The parish members of an English National Park authority shall be appointed by the Secretary of State” [1995 Environment Act Schedule 7 para 3(1)]

4.4 There are two other rules:

- the legislation specifies that parish members must be parish councillors, or Chairs of parish meetings, for a parish which is at least partly inside the Park boundary
- in the National Park Circular, the Secretary of State says that she does not intend to appoint as a parish member anyone who is also eligible for one of the local authority seats (i.e. a local authority councillor).

4.5 Beyond that, there are no stipulations as to how parish members are to be selected. In practice, the process is as follows:

1. all the parishes which lie at least partly inside a National Park, come together to agree how they are going to select people for the available seats (for example, by asking individual parishes to put forward names, or by holding hustings)
2. they also decide how they intend to share the available seats across the National Park (for example, by dividing the parishes into equal sized groups, or by following existing county/district boundaries etc)
3. the parishes then select the people whom they want to fill the parish seats, and NPAs send out forms of eligibility
4. in drawing up the selection process, and then implementing it, the parishes may choose to involve other organisations such as the following , but there is no requirement for them to do so:

- the NPA (who in some cases help towards the costs of running the selection process)
- the county association(s) of the National Association of Local Councils
- the Electoral Reform Society.

5. the names of the parishes' choices are then sent to the Secretary of State, Defra. The parishes put forward only the same number of names as there are vacancies (ie there is no element of choice left to the Secretary of State)
6. those chosen are asked to complete a standard "screening questionnaire" for Defra. This records personal details, including other posts held and other relevant information, but does not form part of any selection process (other than checking eligibility).
7. the Secretary of State appoints the people whom the parishes have put forward. So far as we are aware, Secretaries of State since NPAs were first established in 1997 have never queried a parish choice and have always appointed the people they put forward.
8. Defra issues a one-page appointment letter, signed by the Minister.

4.6 Given that the Secretary of State exercises no choice at all in the selection of these members, a number of responses to the consultation on governance arrangements (including from the NPAs themselves) queried why she needed to formally appoint them.

4.7 The Government agreed with the principle of removing the Secretary of State's confirming role provided that a suitable alternative could be found. Several alternatives have been suggested though some of those we think have fundamental flaws.

4.8 In particular we think neither of the following is a viable solution:

a) no formal appointment

Under this option, there would be no formal appointment; the people who had been chosen would simply take their seats at the next Authority meeting. We think this is too loose an arrangement and that there does need to be a formal appointment, to provide legal certainty and clarity. The agreement on who has been selected may not always be as absolutely clear cut or transparent as one would like. So the discipline of having to send the names to a third party allows everyone to satisfy themselves that there is agreement and to make the appropriate appointments in the light of it. Should anyone subsequently dispute or question an appointment, that person/body/office-holder can point to the evidence presented of agreement at the time to uphold the appointment.

It also covers the possibility of there being failure to reach agreement - although we do not think this has ever happened, dealing with such a contingency is part of the SofS role at present and is mentioned explicitly in the Circular.

It is perhaps also worth pointing out that for some NPAs there is a proposal to extend the eligibility for parish seats so that the parish councils may select any adult who lives within

the Park, whether or not they are a parish councillor / chair of parish meeting. So there may be a heavier quality control task than at present in checking that those put forward are indeed eligible to serve.

For these reasons we do not think this is a viable approach.

b) each NPA could appoint its own parish members

Under this option, the NPA would replace the SofS directly. So the parishes would send their chosen names to the NPA which would issue appointment letters.

We think there could be a propriety issue, or at least the appearance of one, in allowing an Authority to appoint to itself. It is very much a feature of the OCPA code which controls the national appointments, for example, that appointments need to be made by a fully independent process.

Of course the parish appointments are a special case, in that it is the parishes that choose and the NPA would be playing a purely procedural role. But even so we think it would be best to avoid any perception that an Authority might be able to choose its own members.

In the Broads Authority, the BA does appoint its statutory Navigation Committee and, from that, selects two members to serve on the full Authority. But that is a very restricted example as it applies to only two members and there are strict conditions about who may serve on the Navigation Committee (two relate to pleasure craft; one to national pleasure craft associations; one to local pleasure craft associations; two to bodies representing persons likely to pay ship passenger or goods dues; one to other users and one to Great Yarmouth Port Authority. And five are appointed from the existing Broads Authority members). So in reality, the power which the BA has is to choose two people from a pool of eight. We do not think this sets a precedent which would cover parish appointments.

For these reasons, we do not think the NPAs themselves can be asked to make the formal appointments.

## Other options

4.9 Our conclusion is that a new, independent body or office-holder does need to be named to replace the Secretary of State. The role of that person/body would be to:

- formally appoint the people whom the parishes select
- satisfy themselves, if necessary, that those selected are eligible
- if it is ever the case that the parishes cannot agree on their choice, arbitrate to find an acceptable solution

4.10 One obvious candidate for this role would be the chair of the National Association of Local Councils. Under this option the parishes in each NPA (who normally will already have been acting through their county association(s)) would provide the names to one of the County Associations of Local Authorities (CALC) in the Park area which was willing to coordinate this work. That 'lead' CALC would make such checks as they thought necessary (to be sure that the

chosen people were eligible and were indeed the parishes' choice) before forwarding the names to NALC who would issue the appointment letters.

4.11 This would impose a little additional workload on NALC but would crucially depend on the support of the CALCs, one of whom (with agreement of the others) would need to take the lead coordination role in each NPA. There are in total some 42 appointments to be made, most of which are made on the standard 4 yearly cycle for parish elections (so 2011, 2015, 2019 etc) though some 'casual' vacancies do arise, chairs of parish meetings must be re-appointed annually, and some areas are currently on a different cycle. Defra notionally allocates 0.1 fte post for this work - most of which, if this proposal were accepted, would in future be shared between NALC and the lead CALCs for each area. We suggest that need not be onerous for any individual organisation, especially as it seems to fit well with NALC and the CALCs' objectives.

**Q11. Do you agree that the chair of NALC (the National Association of Local Councils) is best placed to replace the Secretary of State in the role of appointing parish members?**

**If you disagree, is this because you believe:**

- a) Secretary of State should retain this role,**
- b) a different office-holder/body should undertake this role – if so, please explain which office-holder/body and why,**
- c) other – please explain.**

4.12 At present, the SofS has made clear (in the NP Circular) that she will not appoint anyone as a parish member of an NPA, if they are also a serving councillor on a district/county/unitary authority which appoints to that NPA - this helps widen the representation. If the SofS transfers her confirming role to someone else, the question arises of whether that rule should be enshrined in the legislation.

**Q12. Do you agree that the rule disqualifying parish councillors from taking a parish seat if they are also members of an appointing district/county/unitary Authority should be enshrined in legislation?**

**If you disagree, please explain your reasons.**

## Political balance

5.1 NPAs and the Broads Authority are not organised on party political lines. This is partly by convention and partly because their structure is not conducive to operating in that way. The Government's view, reinforced by the advice of NPA Chairmen and others, is that this non-party political structure is appropriate to their work and should be maintained.

5.2 However, the local authorities which appoint members to an NPA are covered by the duty to allocate seats to political groups which is at section 15 of and Schedule 1 (especially paragraphs 1 (c) and 2 (ba) ) to the Local Government and Housing Act 1989. This takes effect when a local authority is appointing three or more members to an NPA.

5.3 That situation currently arises in 13 cases, which between them cover 58 (or 50%) of the 117 appointments which local authorities make to NPAs. Those cases are:

<b>NPA</b>	<b>Appointing Authority</b>	<b>Number of seats</b>
Dartmoor	Devon County Council	6
Dartmoor	West Devon Borough Council	3
Exmoor	Somerset County Council	4
Exmoor	West Somerset District Council	4
Lake District	Cumbria County Council	6
Lake District	South Lakeland Borough Council	3
New Forest	Hampshire County Council	5
New Forest	New Forest District Council	4
Northumberland	Northumberland County Council	6
North York Moors	North Yorkshire County Council	5
Peak District	Derbyshire County Council	4
Yorkshire Dales	North Yorkshire County Council	5
Yorkshire Dales	Craven District Council	3

5.4 The remaining appointments are made by the following 49 Councils and, as none reaches the 3 appointments threshold, are all outside the provisions of the 1989 Act:

Norfolk CC; Suffolk CC; Norwich CC; Broadland DC; Great Yarmouth BC; North Norfolk DC; South Norfolk DC; Waveney DC; South Hams DC; Teignbridge DC; Devon CC (to Exmoor); North Devon DC; Allerdale BC; Copeland BC; Eden DC; Wiltshire Council; Test Valley BC; Redcar & Cleveland BC; Ryedale DC; Scarborough BC; Hambleton DC; Cheshire East Council; Barnsley BC; Derbyshire Dales DC; High Peak BC; Kirklees BC; North East Derbyshire DC; Oldham BC; Sheffield CC; Staffordshire CC; Staffordshire Moorlands DC; Hampshire CC (with regard to South Downs NPA); East Sussex CC; West Sussex CC; Adur DC/Worthing DC (jointly); Arun DC; Brighton and Hove CC; Chichester DC; Eastbourne BC; East Hampshire DC;

Horsham DC; Lewes DC; Mid Sussex DC; Wealden DC; Winchester CC; Cumbria CC (to Dales); Richmondshire DC; South Lakeland BC (to Dales).

5.5 The intention behind the 1989 Act provisions is not in question and the Government has no intention of weakening or challenging it. However in the case of NPAs it does throw up two practical issues, the second of which the Government sees as significant.

a) Practical issue 1: lack of uniformity

The three-appointments threshold means that it does not apply uniformly. As the table shows, only about half of appointments fall above the threshold. So, for example, whilst all 6 of the local authority appointments to Northumberland NPA are covered, none of the 14 appointments to the South Downs NPA is. It would in theory be possible for all 14 of these members to come from a single political party (even if that party had only a slender majority in each appointing Council)

b) Practical issue 2: conflict with 1995 Act

In the National Park authority legislation, local authorities are encouraged to appoint local members to the NPA. This is only advisory but it is a clearly expressed preference in the legislation as follows:

“in appointing local authority members of a National Park authority, a principal council shall have regard to the desirability of appointing members of the council who represent wards situated wholly or partly within the relevant Park” (para 2 (4) of Schedule 7 to the 1995 Environment Act).

On occasions, local authorities have not been able to follow this steer because the local members did not come from the political party/ies which would deliver the political balance requirement in the 1989 Act. And because the 1989 Act wording is a requirement, whereas the 1995 Act asks them only to “have regard”, it takes precedence.

In those circumstances, the appointing Authority has no option but to look outside of the National Park area and to choose someone who will deliver the right political mix, whether or not they are otherwise the best choice for the National Park role.

## Options

5.6 We see two ways of dealing with the potential conflict described above. The first would be to remove the political balance requirement entirely which, other things being equal, would allow authorities to always appoint the local councillor, regardless of party affiliation.

5.7 The second option would be to ask local authorities to comply with the political balance rules wherever possible but to allow them to depart from it just in those cases where it impedes the appointment of a local councillor.

5.8 On balance the Government prefers the second approach. This would be achieved by amending the 1989 Act so that the rules set out in Section 15 and Schedule 1 of the 1989 Act are to be followed where a Council is making 3 or more appointments to an NPA unless doing so would prevent them from complying with the 1995 Act exhortation to appoint a local member.

- Q13. Do you think that the requirement on local authorities to have regard to political balance when appointing three or more members to a National Park authority should be:**
- a) removed completely from NPA appointments,**
  - b) removed only when it prevents a local authority from appointing a local member, as encouraged in the 1995 Act,**
  - c) amended in some other way (please specify),**
  - d) kept in its current form.**

## Enabling non-parish councillor eligibility for parish seats

6.1 Under the existing primary legislation (Schedule 7 to the 1995 Environment Act), the people whom the parish councils collectively choose for the parish seats on an NPA must be serving parish councillors for one of the parishes in the Park (or alternatively, the Chair of a parish meeting for one of those parishes, where there is no Council).

6.2 One of the suggestions which came from the governance review was that eligibility for these seats should be widened, so that the parishes could, if they chose, select non-councillors.

6.3 Support for this idea was not consistent: in some areas it was seen as a useful way of broadening participation, whereas in others it was seen as weakening the institutional link between the NPA and the parish councils.

6.4 For these reasons the Government said that it was prepared to make this change but only in those areas where the NPA wanted it.

6.5 This proposal, through amendment of the Environment Act 1995 (followed by an associated Statutory Instrument to apply it to the relevant NPAs), would allow the parishes to consider non-councillors, it would not require them to do so, nor would it establish any sort of quota for non-councillors, nor would it give individuals any automatic right to compete for these seats: the choice of members would still lie entirely with the parishes, this change would simply widen the pool from which they could draw.

**Q14. Do you agree that we should amend the Environment Act 1995 to allow the Secretary of State to allow parishes in individual, subsequently named, NPAs the option of appointing non-councillors to NPAs, where the NPA supports the idea?**

**If you disagree, is this because you believe:**

- a) parish members should always be councillors/chairs of parish meetings,**
- b) it should be possible in all NPAs for parishes to select non-councillors as National Park members,**
- c) other - please explain.**

6.6 If this change is made, then a supplementary question arises as to who the parishes (in an NPA where it has been applied) should be able to select. The Government sees the parish seats as a key means of ensuring that the local viewpoint is present on the Authority and so would still wish to see them reserved for local people. This would also distinguish the parish seats from the directly elected seats where the proposal is that people from any part of the country should be eligible. We therefore propose to tie eligibility for parish seats to the parish councillor rules - meaning that:

- the parishes could only select people who would be eligible to stand in a parish council election for a parish which is at least partly within the National Park
- their appointment would run for the 4 years of the normal parish electoral cycle for that National Park

- their appointment would end prematurely if their circumstances changed in a way that meant they would no longer be eligible to stand as a parish councillor

**Q15. Do you agree that, where this extension is applied, eligibility for the parish seats should be tied to eligibility to stand as a parish councillor?**

**If you disagree, please explain your reasons.**

## **Limit to the maximum term of appointment for members**

7.1 Although there is a limit to the maximum term of appointment for the 'national' members appointed by the Secretary of State, the local authority and parish members can serve on National Park authorities for an indefinite period as long as they remain as councillors and their Council(s) choose to re-appoint them after each election.

7.2 The 'national' members are appointed by the Secretary of State under a process regulated by the Office of the Commissioner for Public Appointments, and as such these appointments carry a maximum limit on the total length to be served of 10 years. This limit has been imposed in order to encourage fresh thinking and provide greater opportunity for those wishing to serve on public bodies.

7.3 To enhance this further, and encourage more interest in the appointments to the NPAs, it has been decided to limit the maximum term of 'national' members to 8 years, in line with many other public bodies. The revised limit of 8 years is being introduced with effect from 1 April 2012. For consistency, the Government would propose to make this a statutory requirement when legislating for a limit on local authority and parish members

7.4 Whilst the nomination process for the local authority and parish members to the NPAs does not fall under the same regime as public appointments, the Government sees the same benefits in having maximum terms for which these members can serve. In particular, a more frequent turnover should provide the public with greater assurance that the nomination process is taking account of the need for fresh thinking and encourage more interest in the work of the Authorities.

7.5 The Government is currently minded to introduce a maximum length of service of 8 years for National Park authorities (subject to the possibility of returning after a break, as described in 7.7).

7.6 The Government invites views on whether that limit should also apply to directly elected members.

7.7 On the issue of re-appointments, the 'national' members who have reached their maximum term of 8 years are not eligible to re-apply for a fresh appointment until a period of 3 years has expired, and when doing so they will be considered alongside other applicants. This would form part of the nomination criteria for local authority and parish members and should encourage others to seek nomination.

**Q16. Do you agree that there should be an eight year limit on the period which local authority, parish, and directly elected members, as well as national members, can serve on a National Park authority?**

**If you disagree, is this because you believe:**

- a) there should be no limit to the length of service of local authority and/or parish and/or directly elected members,**
- b) there should be a different limit to the length of service of local authority and/or parish and/or directly elected members (please specify),**
- c) other – please explain.**

**Q17. Do you think local authority, parish, and directly elected members reaching the 8 year membership limit for NPAs should be:**

- a) eligible to be considered alongside new nominees immediately,**
- b) required to wait for a specified number of years before being considered for nomination (please specify),**
- c) other – please explain.**

# Summary of questions

## Direct Elections

Q1. Do you agree that we should legislate to allow for the possibility of directly elected members to English National Park authorities and the Broads Authority?

If you disagree, is this because you believe:

- a) the Parks already have sufficient local accountability,
- b) other – please explain.

Q2. Do you agree with the principle of accommodating directly elected members into an Authority by making a corresponding reduction across the local authority and/or parish seats, to maintain the overall size?

If you disagree, is this because you believe:

- a) an authority's membership should be increased to accommodate any directly-elected members,
- b) the category of 'national' members should be used as well as local authority and parish members to accommodate directly-elected members,
- c) other – please explain.

Q3. Do you agree with the general approach to these elections described in paragraph 3.10?

If you disagree, please explain your reasons.

Q4. Do you think that any direct elections to National Park authorities and the Broads Authority should be:

- a) combined with other elections where practicable,
- b) held separately,
- c) other – please explain.

Q5. Do you agree that we should trial direct elections to evaluate their efficacy before taking a view as to whether they should be rolled out across other National Park Authorities and the Broads Authority?

If you disagree, is this because you believe:

- a) direct elections should be implemented without piloting,
- b) other – please explain.

Q6. Do you agree with these proposals on eligibility to vote and the electoral system?

If you disagree, please explain your reasons.

Q7. Do you agree that we should place no geographic limitations on where a candidate for election to a National Park Authority can live?

If you disagree, is this because you believe:

- a) candidates should live within the Park,
- b) other – please explain.

Q8. Do you think that any particular restrictions should be placed on who can stand for directly elected seats (over and above the general restrictions applying to all members)?

If so, please explain what those restrictions should be.

Q9. Do you agree that any nomination for candidacy to become a National Park member must be subscribed by 10 people eligible to vote in such an election?

If you disagree, please explain your reasons.

Q10. Do you agree that, for the purposes of direct elections only, a Park should be arranged into wards, corresponding to the number of members to be directly elected?

If you disagree, is that because you believe:

- a) the poll should be 'Park-wide',
- b) there should be multi-member wards,
- c) other – please explain.

## **Secretary of State appointing parish members**

Q11. Do you agree that the Chair of NALC (the National Association of Local Councils) is best placed to replace the Secretary of State in the role of appointing parish members?

If you disagree, is this because you believe:

- a) Secretary of State should retain this role,
- b) a different office-holder/body should undertake this role – if so, please explain which office-holder/body and why,
- c) other – please explain.

Q12. Do you agree that the rule disqualifying parish councillors from taking a parish seat if they are also members of an appointing district/county/unitary authority should be enshrined in legislation?

If you disagree, please explain your reasons.

## Political balance

- Q13. Do you think that the requirement on local authorities to have regard to political balance when appointing three or more members to a National Park authority should be:
- removed completely from NPA appointments,
  - removed only when it prevents a local authority from appointing a local member, as encouraged in the 1995 Act,
  - amended in some other way (please specify),
  - kept in its current form.

## Enabling non-parish councillor eligibility for parish seats

- Q14. Do you agree that we should amend the Environment Act 1995 to allow the Secretary of State to allow parishes in individual, subsequently named, NPAs the option of appointing non-councillors to NPA's, where the NPA supports the idea?

If you disagree, is this because you believe:

- parish members should always be councillors/chairs of parish meetings,
  - it should be possible in all NPAs for parishes to select non-councillors as National Park members,
  - other - please explain.
- Q15. Do you agree that, where this extension of eligibility is applied, eligibility for the parish seats should be based on eligibility to stand as a parish councillor?

If you disagree, please explain your reasons.

## Limit to the maximum term of appointment for members

- Q16. Do you agree that there should be an eight year limit on the period which local authority, parish, and directly elected members, as well as national members, can serve on a National Park authority?

If you disagree, is this because you believe:

- there should be no limit to the length of service of local authority and/or parish and/or directly elected members,
  - there should be a different limit to the length of service of local authority and/or parish and/or directly elected members (please specify),
  - other – please explain.
- Q17. Do you think local authority, parish, and directly elected members reaching the 8 year membership limit for NPAs should be:
- eligible to be considered alongside new nominees immediately,
  - required to wait for a specified number of years before being considered for nomination (please specify),
  - other – please explain.

## How to respond

Please send your replies **no later than 31<sup>st</sup> May 2012** by email to:  
[governance.consultation@defra.gov.uk](mailto:governance.consultation@defra.gov.uk)

or alternatively by post to:

Governance Consultation  
Customer Contact Unit  
Defra  
Nobel House  
17 Smith Square  
London SW1P 3JR

Please contact us if you wish for these documents to be made available in a different format (large print etc) and we will endeavour to accommodate your request.

## Confidentiality

In line with Defra's policy of openness, at the end of the consultation period copies of the responses we receive may be published in a summary/analysis document. **If you do not consent to this, you must clearly request that your response be treated as confidential.**

Any confidentiality disclaimer generated by your IT system in email responses will not be treated as such a request. Respondents should also be aware that there may be circumstances in which Defra will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000.

## List of consultees

Action with Communities in Cumbria  
Action with Communities in Rural England  
ADAS  
Arnsdale and Silverdale AONB  
Association of Caravan & Camping Exempted Organisations  
Association of Electoral Administrators  
Association of Local Government Archaeological Officers UK  
Association of Rural Communities  
Audit Commission  
Bedham Commoners' Association  
Black Environment Network  
Blackdown Hills AONB  
Blakes Holidays Ltd  
Bridleways & Riders Action Group  
British Canoe Union  
British Cave Research Association & National Caving Association  
British Holiday & Home Parks Association  
British Horse Society  
British Marine Federation  
British Mountaineering Council  
British Off-road Driving Association  
British Rowing  
British Trust for Ornithology  
British Water Ski  
Broads Angling Strategy Group  
Broads Authority  
Broads Hire Boat Federation  
Broads Reed and Sedge Cutters Association  
Broads Society  
Byways & Bridleways Trust  
Cabinet Office  
Campaign for National Parks  
Campaign to Protect Rural England  
Camping & Caravanning Club  
Cannock Chase AONB  
Cheshire Association of Local Councils  
Cheshire East Association of Local Councils  
Cheshire Wildlife Trust  
Chichester Harbour AONB  
Chilterns AONB Conservation Board  
Community Connections Great Yarmouth  
Cornwall AONB  
Cotswolds AONB Conservation Board  
Country Landowners and Business Association  
Countryside Alliance  
Countryside Management Association  
Countryside Recreation Network  
Cranborne Chase and West Wiltshire Downs AONB

Cumbria Association of Local Councils  
Cumbria Local Enterprise Partnership  
Cumbria Tourism  
Cumbria Wildlife Trust  
Cyclists Touring Club  
Dales Rural Estates Network  
Dales Tourism Business Network  
Dartmoor Commoners' Association  
Dartmoor Commoners Council & the SW Uplands Federation  
Dartmoor National Park Access Forum  
Dartmoor National Park Authority  
Dartmoor Preservation Association  
Dartmoor Society  
Dedham Vale AONB  
Defence Estates  
Department for Communities and Local Government  
Department for Culture, Media and Sport  
Department for Education & Skills  
Department for Transport  
Derbyshire Association of Local Councils  
Derbyshire Dales CVS  
Derbyshire Wildlife Trust  
Devon Archaeological Society  
Devon Association of Parish Councils  
Disabled Ramblers  
Dorset AONB  
Duchy of Cornwall  
East Anglian Waterways Association Ltd  
East Devon AONB  
East Hampshire Association of Town and Parish Councils  
Eastern Regional Rowing Council  
Eastern Rivers Ski Club  
Easton College  
Educational Centres Association  
Electoral Commission  
English Heritage  
English National Park Authorities Association  
English Outdoor Council  
English Ranger Association  
Environment Agency  
Environmental and Outdoor Learning Team  
Essex & Suffolk Water  
Exmoor Local Access Forum  
Exmoor National Park Authority  
Exmoor Society  
Exmoor Trust  
Farmer Network  
Farming & Wildlife Advisory Group  
Federation of Small Businesses  
Field Studies Council  
Forest of Bowland AONB

Forestry & Timber Association  
Forestry Commission  
Freight Transport Association  
Friends of the Earth  
Friends of the Lake District  
Friends of the Peak District  
Game Conservancy Trust  
Geological Society of Norfolk  
Great Yarmouth Port Authority  
Great Yarmouth Port Users Association  
Green Lanes Environmental Action Movement  
Heritage Lottery Fund  
High Peak CVS  
High Weald AONB  
Highways Agency  
Historic Environment  
Home Office  
Honing Lock Project  
Hoseasons Holidays Ltd  
Howardian Hills AONB  
How Hill Trust  
Inland Waterways Association  
Institute Of Public Right Of Way and Access Management  
Isle of Wight AONB  
Isles of Scilly AONB  
Kent Downs AONB  
Lantra  
Lake District Business Task Force  
Lake District Local Access Forum  
Lake District National Park Authority  
Lincolnshire Wolds AONB  
Local Access Forum (Peak District)  
Local Government Association  
Local Government Boundary Commission for England  
Local Government Ombudsman  
Long Distance Walkers Association  
Malvern Hills AONB  
Masters of Fox Hounds Association  
Mendip Hills AONB  
Mineral Products Association  
Moorland Access Advisory Group  
Moorland Association  
National Association for Areas of Outstanding Natural Beauty  
National Association of Boat Owners  
National Association of Local Councils  
National Caravan Council Ltd  
National Farmers Union  
National Federation of Anglers - Eastern Region  
National Federation of Young Farmers Clubs  
National Gamekeepers' Organisation  
National Trust

Natural England  
NEAD  
New Forest Consultative Panel  
New Forest National Park Authority  
Nidderdale AONB  
Norfolk and Suffolk Anglers Consultative Association  
Norfolk and Suffolk Boating Association  
Norfolk and Suffolk Pleasure Boat Owners  
Norfolk Association of Local Councils  
Norfolk Biodiversity Information Service (NBIS)  
Norfolk Broads Day Boat Owners Association  
Norfolk Coast AONB  
Norfolk Geodiversity Partnership  
Norfolk Museums and Archaeology Service  
Norfolk Wildlife Trust  
Norfolk Windmills Trust  
North Devon AONB  
North Pennines AONB  
North Walsham and Dilham Canal Trust  
North Wessex Downs AONB  
Northumberland Association of Local Councils  
Northumberland Coast AONB  
Northumberland National Park Authority  
North Yorkshire Moors Association  
North York Moors National Park Authority  
Nurture Lakeland  
Open Spaces Society  
Passenger Boat Association  
Peak District National Park Authority  
Peak Park Parishes Forum  
Peak Park Watch  
Planning Officers' Society  
Quantock Hills AONB  
Ramblers' Association  
Royal Agricultural College  
Royal Agricultural Society of England  
Royal Association for Disability & Rehabilitation  
Royal Institution of Chartered Surveyors  
Royal Society for the Protection of Birds  
Royal Yachting Association  
Shropshire Hills AONB  
Society for the Protection of Ancient Buildings  
Society of Local Authority Chief Executives  
Solway Coast AONB  
Somerset Association of Local Councils  
South Devon AONB  
South Downs Land Management Group  
South Downs Local Access Forum  
South Downs National Park Authority  
South Downs Network  
South Downs Society

South East Hampshire Federation of Small Businesses  
South West Water  
Sport and Recreation Alliance  
Sport England  
Staffordshire Moorlands CVS  
Staffordshire Wildlife Trust  
Suffolk Amalgamated Anglers Association  
Suffolk Association of Local Councils  
Suffolk Coast & Heaths AONB Partnership  
Surrey Hills AONB  
Sussex Association of Local Councils  
Sussex Wildlife Trust  
Sustrans  
Tamar Valley AONB  
Three Rivers Way Association  
Tourism Alliance  
Trail Riders Fellowship  
Transport on Water Association  
UK Association of National Park Authorities  
UNISON  
United Utilities  
Visit Peak District  
Voluntary Norfolk  
Water UK  
Welcome to Yorkshire  
West Sussex Rural Forum  
Weald and Downland Museum  
Wherry Yacht Charitable Trust  
Woodcroft  
Woodland Trust  
Wye Valley AONB  
YDMT  
Yorkshire Dales National Park Authority  
Yorkshire Dales Society  
Yorkshire Local Councils Association  
Youth Hostels Association (England & Wales)

Plus:

All local authorities falling partly or wholly within the English National Parks  
All those who responded to the previous National Parks governance consultation

## Useful links & abbreviations

Schedule 7 to the 1995 Environment Act (which contains the membership provisions):

<http://www.legislation.gov.uk/ukpga/1995/25/schedule/7>

Schedule 1 to the 1989 Local Government & Housing Act (which contains the political balance rules):

<http://www.legislation.gov.uk/ukpga/1989/42/schedule/1>

2010 Vision & Circular (which includes a description of parish members etc):

<http://archive.defra.gov.uk/rural/documents/national-parks/vision-circular2010.pdf>

ANPA	(UK) Association of National Park Authorities
BA	the Broads Authority
BC	Borough Council
CALC	County Association of Local Councils
CC	County Council <i>or</i> City Council
DC	District Council
Defra	Department for Environment, Food and Rural Affairs - the Government Department which has policy responsibility for National Park Authorities
ENPAA	English National Park Authorities' Association
fte	full-time (staff) equivalent
NALC	National Association of Local Councils
NPAs	the English National Park Authorities, namely : Dartmoor; Exmoor; Lake District; New Forest; Northumberland; North York Moors; Peak District; South Downs; Yorkshire Dales
SofS	Secretary of State