

NATURAL ENGLAND BOARD



Meeting 3
21 February 2007

Paper No: **NEB P07 06**

Title: **Governance**

Sponsor: **Liz Newton – Risk & Governance Team**

1. Purpose

1.1 This paper wraps up a number of governance items for information or agreement by the Board.

2. Recommendations

2.1 The Board is asked to :-

- a. Agree the Board Code of Conduct attached at annex 1.
- b. Note updates on the Scheme of delegation.
- c. Note the amended Standing Orders as discussed at the September meeting and attached at annex 3.

3. Background

3.1 Board Code of Conduct.

Under the Management Statement for Natural England the Chair is required to ensure that we have a Board Code of Conduct in place, based on the Cabinet Office's *Model Code of Practice for Board Members of Public Bodies*. The Code commits the Chairman and other Board Members to the Nolan principles of public life, and must include a requirement for a comprehensive and publicly available register of Board Members' interests. The draft code of conduct attached at annex 1 has been drawn up on this basis.

3.2 Scheme of delegation

At the Natural England Board meeting on 5 December 2006, the Board agreed that the scheme of delegations will be a standing item at future meetings to allow agreement of any variations, and to note any items approved by the Chair.

At the December Board meeting the Board:

1. Requested that Part 5 (Advice and responses to consultations) and Part 8 (Planning) are aligned.

The intention of Part 5 is to cover those areas where we give general advice under a number of headings, for completeness, and help ensure that advice is given from the correct level within Natural England. Part 8 specifically relates to responses on contentious/regionally significant planning issues. To clarify this we suggest the heading of Part 5 is reworded to exclude planning explicitly (which is covered by Part 8).

2. Requested confirmation as to why byelaws on SSSIs have a different level of delegation to byelaws on EU sites. We can confirm that the scheme of delegation should for now state that byelaws both on SSSIs, and byelaws on EU sites, are retained by the Board.

The making of bye-laws on European Sites would in practice be for marine sites as terrestrial ones would be picked up under the SSSI provision. No marine bye-laws have yet been made, and while these could be dealt with by the Chief Executive, referring issues to the Board if appropriate, it is felt that for now these should be taken by the Board.

It is suggested that we make the appropriate changes in March/April '07 when there is a review of how the delegations are functioning and other changes are also likely to be needed.

The Non Financial Scheme of Delegations is attached at annex 2.

3.3 Standing Orders

These were considered at the meeting of the Skeleton Board in September and agreed, subject to a few amendments. It was agreed that once the necessary amendments were made these would be signed off by the Chair of the Audit Committee.

The question was raised at the last Board meeting as to whether approvals by the Chair to alter the scheme of delegations or to approve matters retained by the Board, between Board meetings, requires retrospective sign off by the Board. This is the case, but to avoid this in future it is proposed that we amend the Standing Orders to enable the Chair to sign off approvals between meetings. The Board will be informed of any approvals under a standard Board item on the Schedule of delegations.

The amended Standing orders are attached at annex 3.

For note, no approvals have been made by the Chair in this period.

Annex 1

Board Code of Conduct

1. Natural England is here to conserve and enhance the natural environment, for its intrinsic value, the wellbeing and enjoyment of people and the economic prosperity that it brings.
2. As Board Members of Natural England, we expect to carry out our roles with integrity, honesty, objectivity and impartiality. This Code sets out the standards of behaviour expected of all Board members of Natural England based on these values. In the Code:
 - 'integrity' is putting the obligations of public service above our own personal interests;
 - 'honesty' is being truthful and open;
 - 'objectivity' is basing our advice and decisions on rigorous analysis of the evidence;
 - 'impartiality' is acting solely according to the merits of the case and serving equally well Governments of different political persuasions.

Further guidance on aspects of the Code are given in annexes 1A and 1B.

3. These values support good governance and ensure the achievement of the highest possible standards in all that Natural England does. This in turn helps Defra, our sponsoring department, and the wider public service to gain and retain the respect of Ministers, Parliament, the public and our customers.

Integrity

4. We will:
 - fulfill our duties and obligations responsibly;
 - always act in a way that is professional and that deserves and retains the confidence of all those with whom we have dealings;
 - make sure public money and other resources are used properly and efficiently;
 - deal with the public and their affairs fairly, efficiently, promptly, effectively and sensitively, to the best of our ability;
 - handle information as openly as possible within the legal framework;
 - comply with the law and uphold the administration of justice.
5. We will not:
 - misuse our official position, for example by using information acquired in the course of our official duties to further private interests or those of others;
 - accept gifts or hospitality or receive other benefits from anyone which might reasonably be seen to compromise our personal judgment or integrity;
 - disclose official information without authority. This duty continues to apply after leaving Natural England.

Honesty

6. We will:
 - discuss the facts and relevant issues truthfully, and correct any errors as soon as possible;
 - use resources only for the authorised public purposes for which they are provided.
7. We will not:
 - be influenced by improper pressures from others or the prospect of personal gain.

Objectivity

8. We will:
 - provide information and advice, including advice to Ministers, on the basis of the evidence, and accurately present the options and facts;
 - take decisions on the merits of any case;
 - take due account of expert and professional advice.
9. We will not:
 - ignore inconvenient facts or relevant considerations when providing advice or making decisions;
 - frustrate the implementation of policies once decisions are taken by declining to take, or abstaining from, action which flows from those decisions.

Impartiality

10. We will:
 - carry out our responsibilities in a way that is fair, just and equitable and reflects Natural England's commitment to equality and diversity.
11. We will not:
 - act in a way that unjustifiably favours or discriminates against particular individuals or interests.

On behalf of the Board of Natural England

Sir Martin Doughty
Chair
Natural England
Date:

ANNEX 1- A

Guidance on relevant issues

Registering interests with a personal or prejudicial interest

1. You are required to register any personal interests that may be considered to be a potential conflict of interest with your role within Natural England. Potential prejudicial interests should be declared at appropriate times in both internal and external meetings and you should withdraw from the discussion.
2. You must not accept a directorship, except as a nominee of Natural England, in any company holding a contract with Natural England without the Chair's approval. Where you come into official contact with any matter concerning a business organisation in which you have a significant interest you must immediately disclose your interest to the Chair and take no further part in discussions and decisions.

Purchases from, and sales to, Natural England

3. You may not buy assets from, or sell assets to, Natural England in a personal capacity. Any interests you have in organisations involved with Natural England should be officially declared.

Outside occupations or involvement in other organisations

4. You must not engage in any occupation or undertaking which might in any way conflict with the interests of Natural England, or be inconsistent with your position as a Board Member for Natural England. You should register any interests you have in areas that may co-incide with the interests of Natural England.

Political Activities

5. As a Board Member in an organisation that advises elected members of government and carries out government policies, you must behave with discretion in matters of public and political controversy so that your impartiality is beyond suspicion.

Authority to act on behalf of Natural England

6. All agreements and contracts, both in pursuance of Natural England's statutory objectives or commercially for sale or purchase, or quasi-contracts formal or informal, require approval in accordance with the approved Management Statement and Financial Memorandum. You must abide by these at all times.

Acceptance of Gifts, Rewards and Hospitality

7. There are no circumstances in which it is permissible to accept anything that could be construed as a personal reward for a service or transaction performed as part of your Board duties. The general principle is that gifts and hospitality should be refused. There are exceptions to this rule in the cases of: gifts of a trivial or inexpensive and seasonal nature; or hospitality accepted

as part of normal and public ongoing relations with other bodies (see Annex B).

8. Any gift or hospitality should be recorded in the appropriate register and, normally, the item should be not accepted or returned to the sender with a suitable explanation. The guiding principles are:
 - your conduct must not foster the suspicion of any conflict between your official duty and your private interest;
 - your actions whilst acting in an official capacity must not give the impression (to any member of the public, organisation with whom you deal or to colleagues) that you have been or may have been influenced by a gift or consideration to show favour or disfavour to any person or organisation;
 - gifts or hospitality must be refused if you are in any doubt about the propriety of accepting them.
9. You should record the offer or receipt of any kind of gift or hospitality in writing in the Board's Gifts and Hospitality Register. The onus is on you to record every case, with your assessment of the correct course of action in the light of this guidance. The risk of causing offence by refusal is not sufficient reason on its own for acceptance where it would otherwise be improper to accept.
10. The requirement to report gifts, hospitality and awards arising from official activity applies equally where the beneficiary is a relative or associate, e.g. where a gift is made to a spouse/partner or employment is offered to a friend. See Annex B for examples.

Gifts from Overseas Governments and Organisations

11. Special considerations apply to gifts and hospitality from overseas governments or organisations. Although the principles set out above apply generally to such gifts, there may be occasions when refusal could appear discourteous or a gift should be offered in return. Advice should be sought from a governance specialist in cases of doubt.
12. The normal Customs rules apply to gifts received abroad in a private capacity and need not be declared to Customs unless the value together with other articles acquired exceeds the normal allowance for gifts and all other goods.
13. Special arrangements exist for international goodwill gifts received by Board Members or staff in their representative capacity. Further details of the arrangements are available from a governance specialist.

Electronic Data Issues

14. All electronic transactions made using Natural England equipment are the property of Natural England. All computer transactions, including e-mail and web activity are stored, backed up and recoverable in case of loss or accidental deletion. They will be inspected only if there are concerns raised that the facility is being abused.
15. In accordance with the Data Protection Codes of Practice, Natural England's IT service provider will monitor traffic levels more broadly in order to track patterns of use and anticipate system needs, but Natural England will investigate or inspect only if it has reason to believe that a system is being

used excessively, to commit an offence or in an unauthorised manner. Board Members will be kept informed of any such investigations in relation to the points above.

16. Board members are responsible for maintaining the confidentiality of any Natural England's data or information that they handle.

Acceptance of Gifts, Rewards and Hospitality

<u>Gifts</u>	
Offers which might be acceptable	Offers which SHOULD NOT be accepted
Isolated trivial or inexpensive gifts e.g. pocket diaries, calendars etc.	All other gifts, including the offer of items or services at trade or discount prices e.g. goods, holidays or holiday travel.
<u>Hospitality</u>	
Offers which might be acceptable	Offers which SHOULD NOT be accepted
<p>Modest conventional hospitality, provided that:</p> <ol style="list-style-type: none"> a. acceptance is limited to isolated occasions; and b. acceptance can be shown to be in the interests of Natural England. <p>Examples may include:</p> <ul style="list-style-type: none"> • drinks • meals (particularly working lunches) • appropriate external dinners and conferences. • Overnight accommodation at a colleague or contact's home 	<p>All other hospitality including:</p> <ol style="list-style-type: none"> a. invitations to frequent or extravagant social functions (particularly invitations from the same source). b. hotel expenses for personal use or other subsistence not connected to Natural England's work. c. travelling expenses.

Annex 2

2A: SUMMARY OF NON FINANCIAL DELEGATIONS THAT THE NATURAL ENGLAND BOARD HAS RETAINED

PART 1 - NATIONAL POLICY AND STRATEGIES

SUBJECT
1. Approval of national policy and strategies involving potential significant impact on the environment, the organisation or Natural England's reputation

PART 2 - SSSIs

SUBJECT
1. Confirmation of notification, variation, enlargement, notification of additional land, or de-notification (contentious cases)
2. Notification/confirmation in an emergency (Chair)
3. Making bye-laws

PART 3 - NNRs

SUBJECT
1. Acquisition and declaration of a new NNR; de-declaration of the whole of an NNR on a permanent basis

PART 4 – Marine Nature Reserves

SUBJECT
1. Application to SoS for designations of Marine Nature Reserves

PART 5 – Advice and responses to consultations

SUBJECT
1. Advise SoS on schedules of animals and plants
2. Advise the SoS on planning/development and other issues affecting the accomplishment of National Park and AONB purposes
3. Response to consultation from SoS on order for AONB Conservation Board

PART 6 – Compulsory Purchase

SUBJECT
1. To seek approval for a compulsory purchase

PART 7 – National Trails

SUBJECT
1. Recommendation to designate a new National Trail
2. Agreement on an extension of a National Trail

PART 8 – Planning

SUBJECT
1. Significant national planning policy and responses to significant consultations

PART 9 – National Parks (see also ‘Policy’ for designation policy)

SUBJECT
1.Recommend to designate or vary boundary 2.Approve annual advice to Ministers on level/distribution of NP grants 3.Recommend to Ministers candidates for specific NP Authorities 4.Recommend candidates for Chief Officer for NPs 5.Duty to keep under review progress in accomplishing National Park purposes

PART 10 – AONBs

SUBJECT
1.Recommend to designate or vary boundary 2.Recommend to Ministers candidates for specific Conservation Boards 3. Duty to keep under review progress in accomplishing AONB purposes

PART 11 – Open Access

SUBJECT
1.Approve statutory CROW access maps for publication 2.Approve revisions to CROW Mapping Methodology for England

Annex 3

Natural England – Standing orders for Non-Executive Board meetings

1. Introduction

- 1.1 Under Schedule 1 of the Natural Environment and Rural Communities Act 2006, Natural England has the power to regulate its own procedures. These Standing Orders set out the detailed procedures of the conduct of its Board meetings, and of its Committees. These Orders apply to formal business meetings, both open and closed sessions, of the Natural England Board and not to informal Board seminars, workshops or similar meetings.
- 1.2 The Board is appointed by the Secretary of State and comprises a Chair and no than 8 and not more than 15 other members. All members are appointed on an individual basis and not as representatives of any organisations or interests.

2. Meetings of the Board

- 2.1 No business will be transacted by the Board unless it is quorate. A quorum will consist of 50% of Members, rounded up if necessary, plus one. The Chair of the meeting is included in this figure. All attendances and absences will be recorded in the minutes of any meeting. The necessary figures for a quorum are as follows:

Number of Members	Quorum required
9	6
10	6
11	7
12	7
13	8
14	8
15	9
16	9

- 2.2 Participation will normally be in person, but in exceptional circumstances individual Members may participate by telephone or video-conference. Such Members shall be deemed present and constitute part of the Board for that meeting.
- 2.3 Meetings of the Board will take place on a regular basis throughout the year and will normally be scheduled a year in advance and the dates made public. The Chair can call a special (i.e. not previously scheduled) meeting of the Board by giving at least 8 working days notice. If 6 or more Board Members ask the Chair to call a special meeting, he/she will normally agree to do so.

3. Meeting agenda

- 3.1 The agenda for a Board Meeting will be proposed by the Chief Executive and approved by the Chair, or in his/her absence, the Deputy Chair.
- 3.2 No items other than those on the agenda will normally be discussed at a meeting unless they have been proposed in advance of the meeting within 3

days of the issue of the agenda and then only with the Chair's agreement. The Chair has the discretion at a meeting itself to allow a subject to be discussed as long as the majority of those present do not object.

4. Board papers

- 4.1 Board papers will normally be sponsored by an Executive Director and approved for issue by the Chief Executive.
- 4.2 Papers should be as short as possible consistent with the need to be clear and to be supported by adequate evidence and argument. Where a significant level of supporting detail is required for proper understanding of the issues involved, that detail will normally be provided in appendices to the main paper. A paper should be clear as to any financial and/or public relations implications of its recommendations. The recommendations to the Board should be clearly stated and highlighted.
- 4.3 The agenda and papers for a meeting should be distributed to Board Members at least 7 days before the meeting by electronic or hard copy medium as agreed with each individual Member. At the same time the agenda and papers for the open session of the Board meeting will be posted on the Natural England website.

5. Open and closed sessions of Board Meetings

- 5.1 All the business of the Board will be conducted in open session unless there are overriding reasons for doing otherwise. It will be a decision for the Chair, having taken advice from the Chief Executive, to confine any item of business to a closed session of the Board. Such circumstances might include situations where –
 - a paper contains information which is the subject of legal proceedings or legal advice;
 - papers contain certain sensitive personnel or staffing issues;
 - papers contain information which, if placed in the public domain, would increase the likelihood of damage to the environment;
 - papers relate to Natural England's policy advice to Government where this is subject to further internal discussion or has been asked for in confidence;
 - papers contain commercially confidential material.

Papers which are taken in closed session will not be issued to the public or posted on the website.

- 5.2 Before the meeting the Chair or other Members may move that an item be considered in closed session rather than open session, or vice versa, if there is reason to do so.
- 5.3 Open sessions of the Board will be held in public with adequate arrangements for the public to attend and to hear in reasonable numbers. Natural England is entitled to reserve the right not to admit members of the public who appear without advance notice in large numbers and the right to eject persons who disrupt meetings. Members of the public have no right to participate in discussions, but may be allowed to do so at the Chair's discretion if they have given written notice in advance of their wish to do so and their participation is

relevant and facilitates debate. No cameras or recording equipment may be used without the approval of the Chair.

6. Chairmanship of meetings

6.1 At any meeting of the Board, Natural England's Chair will preside. If the Chair is unable to be present, the Deputy Chair will preside. If neither is able to preside the Chair will normally indicate which other member will preside. In the absence of such advice, the Board Members present will choose one of their number to preside, but that person may not be the Chief Executive. Whoever takes the chair under this standing order assumes all powers and duties relating to the conduct of a meeting normally assigned to the Chair.

6.2 The Chair will:

- a. ensure that meetings are held at regular intervals throughout the year;
- b. ensure that minutes of the meetings accurately record the decisions taken and where appropriate, the views of individual members;
- c. preserve order and ensure that members have sufficient opportunity to express their views on all matters under discussion;
- d. determine all matters of order, competency and relevancy;
- e. determine in which order members should speak;
- f. determine if a conflict of interest requires any member to withdraw from discussion on any agenda item;
- g. determine whether or not a vote is required and how it is carried out;
- h. have the power to re-order the sequence of the agenda if that will help the progress of business.

7. Board decisions

7.1 Decisions by the Board must be by consensus of participating Members except where a vote is required. Only those Members participating in the discussion at the point when the decision is reached will be treated as participating for the purpose of making the decision. A Member who leaves the meeting prematurely will be therefore be treated as a non-participating Member for the purpose of any decision taken after the time of their departure.

7.2 Decisions will be reached by vote whenever the Chair thinks this necessary because a clear consensus has not emerged or where a Member requests that a vote be taken and has the support of at least one other Member for the taking of a vote. Where there is an equality of voting, the Chair has a casting vote.

7.3 The Board may defer a decision on an agenda item so that it can be provided with additional information or for any other reason. The decision to defer, together with the reasons for doing so, will be recorded in the minutes of the meeting together with a proposed time for returning the matter to the Board for its consideration.

- 7.4 The Board may decide to delegate decisions on agenda items to the Chair. The decision to delegate, with the reasons together with the final decision, should be recorded in the minutes of the meeting.
- 7.5 Members may dissent from any decision recorded provided they have participated in the meeting in which that item was considered and provided that Members ask immediately after the item is disposed of that such a dissent be recorded.
- 7.6 Written comments on agenda items submitted by any non-participating Members will not be part of the decision-making process. These will, however, be circulated to Members and read out at the appropriate point in the meeting.
- 7.7 Exceptionally, if a Board decision is urgently required on a matter of policy and it is not possible to convene a meeting, the matter will be dealt with by correspondence. In such circumstances Members will send their views to the Chair in writing. The decision will be ratified at the next meeting and recorded in the minutes.
- 7.8 In respect of operational matters retained by the Board there may be occasions where a decision is urgently required in between Board meetings on matters that would otherwise be referred to the Board. The Chair has the discretion to approve such decisions to allow the timely achievement of operational business, but will ensure that the Board is kept informed of any such decisions, either at the next meeting under a standing item on scheme of delegations or through correspondence.

8. Minutes of meetings

- 8.1 Minutes of all meetings will be taken. The minutes, when read in conjunction with papers presented at the meeting, should provide a correct record of the meeting and be sufficiently detailed to provide an audit trail of the issues discussed by the Board and the decisions taken.
- 8.2 Draft minutes will be approved by the Chair for circulation to Board Members as "Unconfirmed Minutes". Members will propose any amendments in writing. The amended minutes will be presented to the next Board meeting to be confirmed. Minutes of open sessions will be posted on the Natural England website and made available to the public on request.

9. Status of officers

- 9.1 The Chief Executive will advise the Board on all matters of propriety, regularity, and prudent and economical administration in his/her role as Accounting Officer.
- 9.2 The Chief Executive has the right to attend all Board meetings save where his/her remuneration and performance are being discussed.
- 9.3 The Executive Directors will normally be invited to attend Board meetings, save where the Chief Executive's remuneration and performance are being discussed, but may be asked exceptionally, from time to time, to withdraw at the request of the Chair.

9.4 At the Chair's discretion, Executive Directors may contribute to the Board's discussions but will have no decision-making rights.

9.5 Staff will attend meetings as determined by the Chief Executive.

10. Delegation

10.1 The Board may delegate its powers to Committees, Sub-Committees, other groups or individuals as it regards as necessary.

11. Conflicts of interest

11.1 Declarations of interest relevant to items on the agenda should be made at the start of the meeting. In the event of a Member not appreciating at the beginning of the meeting that an interest exists, the Member should declare such an interest as soon as he/she becomes aware of it.

11.2 Members should not participate in the discussion or determination of matters in which they have a direct pecuniary interest.

11.3 When an interest is not of a pecuniary kind, Members should consider not only the possibility of bias, but also the extent to which a perception of bias might exist such that any Board decision might be compromised.

11.4 When a Member becomes aware of a conflict of interest they will usually withdraw from the meeting of the duration of that agenda item.

11.5 In any case of doubt, Board Members should openly declare the possibility of an interest, whether that interest is direct or indirect. The Chair will then decide whether this does indeed cause conflict of interest and therefore prevents the Member participating in the discussion or determination of the matter.

11.6 A Register of Members' Interests is held by Natural England's Board Support staff. The register is open to public inspection.

11.7 Natural England staff in attendance at a Board meeting should declare interests in accordance with the procedures laid out for Board Members. Where the Chairman rules a potential conflict of interest exists, the member of staff should take no part in discussion or determination of the matter.

12. Confidentiality

12.1 Members may use their discretion in discussing items of Board business from open sessions with other parties following the meeting. The nature and content of business considered in closed or private session must not be divulged to, or discussed with, anyone other than fellow Board Members and staff in attendance.

12.2 Board Members should get prior approval of the Chair, or in his/her absence the Deputy Chair, before making public statements (including statements to the media) on behalf of the Board on controversial or high profile issues or on areas of policy not yet agreed by the whole Board.

13. Personal liability of Board Members

13.1 While any legal proceedings initiated by a third party are most likely to be brought against the Board as a whole, in exceptional cases proceedings may be brought against the Chair or any other individual Board Member. However a Board Member who has acted honestly and in good faith will not have to meet out of his or her own personal resources any personal or civil liability which is incurred in the exclusion or purported execution of his or her Board function, save where the Member has acted recklessly.

14. Suspension of Standing Orders

14.1 These Standing Orders may be varied, revoked or added to by the Non-Executive Board. Any alterations will need the consent of the majority of Members present at a meeting.

14.2 No Standing Order may be suspended or amended where this would contravene any statutory provision or direction made by the Secretary of State.

**Annex 1: Procedures for meetings where the Board acts in a quasi-judicial role
e.g. confirmation of SSSIs**

- A.1 Members of the public with a relevant interest may make representations to the Board in person, and must notify Natural England's Board Services in advance of their intention to make such representations.
- A.2 The representations to the Non-Executive Board will last for a maximum of ten minutes and may use audio-visual aids if necessary. The presentation must be visible to the whole meeting.
- A.3 The Non-Executive Board will question both Natural England officers and those members of the public making representations before making its decision. The decision making process shall conform to that described in Section 7 of these Standing Orders.
- A.4 The Board will be joined for the discussions by an appropriately qualified lawyer, who provides appropriate legal advice as required, but who takes no part in the formal decision-making.
- A.5 A stenographer will be present to note the verbatim discussions.