

Duties on relevant authorities to have regard to the purposes of National Parks, Areas of Outstanding Natural Beauty (AONBs) and the Norfolk and Suffolk Broads

Guidance Note

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Introduction

1. National Parks, the Broads and Areas of Outstanding Natural Beauty (AONBs) have been confirmed by the Government as having the highest status of protection in relation to landscape and scenic beauty. Each of these designated areas has specific statutory purposes which help ensure their continued protection. National Park purposes are to conserve and enhance their natural beauty, wildlife and cultural heritage and to promote opportunities for the understanding and enjoyment of their special qualities by the public. The Broads' purposes are to conserve and enhance their natural beauty, promote their enjoyment by the public and protect the interests of navigation. And the statutory purpose of AONBs is to conserve and enhance the natural beauty of their area.

2. Each of the Acts relating to these areas places a general statutory duty on all relevant authorities requiring them to have regard to their purposes as set out above. This ensures that relevant authorities take account of these purposes when coming to decisions or carrying out their activities relating to or affecting land within these areas. It recognises that a wide range of bodies have a direct influence over the future of these protected landscapes in terms of policy, programme and project implementation, casework decisions, land ownership and management. It also acknowledges that the fulfilment of protected area purposes rests not only with those bodies directly responsible for their management but also relies on effective collaborative working. As such, the duties are particularly important to the delivery of the purposes of protected areas and to the overall achievement of sustainable development in rural areas.

3. This guidance is intended to provide greater clarity on these duties and to whom they apply. It explains how authorities subject to the duties might demonstrate compliance with them and explains the process by which they will be monitored. It does not introduce new obligations; rather, its objective is to raise awareness of the duties and to encourage the monitoring of them with new vigour. It also provides a new opportunity for all relevant authorities to show their commitment to conserving and enhancing our finest landscapes, to which end clear public expressions of this commitment would be helpful to all.

The duties explained

4. The statutory duties are provided for in Section 11A(2) of the National Parks and Access to the Countryside Act 1949 (National Parks), Section 17A of the Norfolk and Suffolk Broads Act 1988 (The Broads) and Section 85 of the Countryside and Rights of Way Act 2000 (AONBs). Specifically, they state that, "in exercising or performing any functions in relation to, or so as to affect, land" in these areas, relevant authorities "shall have regard" to their purposes (as set out in paragraph 1 above).

5. It is important to note that the duties apply to **any** decisions or activities an authority may take affecting land in these areas; not just to those that relate to narrowly-defined environmental or 'countryside' issues.

6. Additionally, it may sometimes be the case that the activities of certain authorities operating outside the boundaries of these areas may have an impact within them. In such cases, relevant authorities will also be expected to have regard to the purposes of these areas.

7. In National Parks, if it appears there is an irreconcilable conflict between the Park's two purposes then greater weight should be attached to the conservation purpose (the "Sandford principle"). Under section 11A (2) of the 1949 Act, this obligation also falls on relevant authorities when having regard to the purposes of National Parks.

8. It is important for all to be aware that the duties do not override particular obligations or considerations which have to be taken into account by relevant authorities in carrying out any function. However, they are intended to ensure that the purposes for which these areas have been designated are recognised as an essential consideration in reaching decisions or undertaking activities that impact on those areas.

Defra's expectations of relevant authorities

9. Relevant authorities are expected to be able to demonstrate that they have fulfilled these duties. Where their decisions may affect National Parks, AONBs or the Broads, they should be able to clearly show how they have considered the purposes of these areas in their decision making. This might be done in the following ways:

- relevant authorities should consider undertaking and making publicly available an assessment of the impact on National Parks, the Broads or AONBs of any policy, plan, programme or project which is likely to affect land within these areas.
- relevant authorities should ensure that decisions affecting these areas are properly considered and recorded in high level policy documents and public statements;
- relevant authorities could make reference to the duties in their annual reports and/or other appropriate monitoring documents, setting out the actions they have taken to comply and any examples of good practice;
- National Park, Broads and AONB Management Plans provide a useful mechanism for those managing these areas to secure the active involvement of relevant authorities in plan implementation; and

- another option is for relevant authorities to issue their own statement of how they will take account of the purposes of these designated areas. For example, by undertaking some of the measures outlined above where appropriate. And, for larger organisations, ensuring that the duties are understood across the organisation, for example, through inclusion in internal practice guidance. Some relevant authorities have already done this and we would encourage all to consider following this example.

10. Being able to demonstrate compliance in these ways may help relevant authorities if challenged on their compliance with the duties, for instance at any public inquiry.

Monitoring

11. Any breaches of compliance with the duties will be monitored in the first instance by National Park Authorities, AONB management bodies or Conservation Boards and the Broads Authority. It is expected that each will include a brief assessment of non-compliance with the relevant duty in their annual reports. Where they have been unable to resolve any issues of non-compliance through direct liaison with the relevant authority concerned, they will bring any significant contraventions to the attention of the Countryside Agency or Integrated Agency when it comes into being. The Agency will monitor these cases (and also those brought to its attention by members of the public and other bodies), and investigate where necessary. The Agency will also provide a short overview annual report to the Minister for Rural Affairs and Local Environment Quality highlighting any serious concerns it has. In addition, all bodies involved in the monitoring process should consider highlighting positive examples of good practice/compliance.

12. Defra will periodically review this guidance and, where necessary, update or revise it.

Further information

13. If relevant authorities are unsure what is required of them when planning to undertake a function or take a decision in relation to, or so as to affect, land in a protected landscape, they should contact the relevant National Park Authority, the Broads Authority or, in the case of an AONB, the appropriate local authority or Conservation Board. Details of those bodies can be obtained from the following national associations:

Association of National Park Authorities (ANPA) (also for the Broads Authority)
126 Bute Street
Cardiff
CF10 5LE
www.anpa.gov.uk

National Association for Areas of Outstanding Natural Beauty (NAAONB)
The Old Police Station
Cotswold Heritage Centre
Northleach
Gloucestershire GL54 3JH
www.aonb.org.uk

Except where otherwise indicated, we consider the authorities listed below to be subject to all the duties explained in this guidance note. It is important to note that the list is not exhaustive. Rather it indicates the key relevant authorities to whom the duties apply. And, in the final event, only the Courts can determine who is bound.

1. Government departments and their executive agencies and related public bodies:

Department for Culture, Media and Sport (DCMS)

British Broadcasting Corporation (this only affects the organisational side of the Corporation and not the broadcasting side)
Commission for Architecture and The Built Environment
Big Lottery Fund (Community Fund and New Opportunities Fund merged)
English Heritage
Millennium Commission
National Heritage Memorial Fund (includes Heritage Lottery Fund and Heritage Memorial Fund)
Sport England
UK Sport
Visit Britain

Office of the Deputy Prime Minister (ODPM)

Building Regulations Advisory Committee
English Partnerships
Property Advisory Group
Planning Inspectorate Agency
Ordnance Survey
The Housing Corporation
Fire Services

Department for Environment, Food and Rural Affairs (Defra)

British Waterways Board
Countryside Agency¹
English Nature²
Environment Agency (including Regional Flood Defence Committees)
Joint Nature Conservation Committee
Advisory Committee on Business and the Environment
Advisory Committee on Consumer Products and the Environment
Advisory Committee on Hazardous Substances
Advisory Committee on Pesticides
Advisory Committee on Releases to the Environment
Air Quality Expert Group
Inland Waterways Amenity Advisory Council
Radioactive Waste Management Advisory Committee

¹ It is planned to divide the current functions of the Countryside Agency between the proposed Commission for Rural Communities and Integrated Agency through the Natural Environment and Rural Communities Bill. The duties will apply to these bodies as well.

² It is also planned that the Integrated Agency will take on English Nature's functions through the Natural Environment and Rural Communities Bill.

Royal Commission on Environment Pollution
Sustainable Development Commission
Pesticides Safety Directorate
Committee on Radioactive Waste Management

Ministry of Defence (MoD)

Oil and Pipelines Agency
Defence Estates

Department of Health (DH)

Strategic Health Authorities
NHS Trusts, including Ambulance Trusts
Primary Care Trusts

Home Office

The Police Service

Department for Trade and Industry (DTI)

Agriculture and Environment Biotechnology Commission
British Coal Corporation
British Nuclear Fuels Plc
Coal Authority
Energy Advisory Panel
Industrial Development Advisory Board
Regional Industrial Development Boards
Renewables Advisory Board
United Kingdom Atomic Energy Authority
Nuclear Decommissioning Authority (comes into being on 1 April 2005)

Department for Transport (DfT)

Strategic Rail Authority¹
Highways Agency

Department for Work and Pensions (DWP)

Health and Safety Executive
Health and Safety Commission

Forestry Commission

Forest Enterprise
Forest Research

Office of National Statistics

¹ Note: The Strategic Rail Authority is to be wound up in due course.

2. Government offices:

East of England

For National Park and AONB duties only:

East Midlands

London

North West

North East

South West

South East

West Midlands

Yorkshire and the Humber

3. Regional assemblies¹:

East of England

For National Park and AONB duties only:

East Midlands

Greater London Authority

North West

North East

South West

South East

West Midlands

Yorkshire and the Humber

4. Regional development agencies

East of England Development Agency

For National Park and AONB duties only:

Advantage West Midlands

East Midlands Development Agency

London Development Agency

North West Development Agency

One North East

South East England Development agency

South West of England Development Agency

Yorkshire Forward

¹ Note: The duty will apply to any elected regional assembly that may come into existence. Also Regional Assemblies are the Regional Planning Bodies for their region and the duty therefore falls on Regional Planning Bodies as well.

5. Regulators

Office of Communication (Ofcom)

Office of Gas and Electricity Markets (Ofgem)

Office of the Rail Regulator (ORR)

Office of Water Services (Ofwat) including:

- Watervoice: Regional Committees
- Watervoice Council

6. The following statutory undertakers:

- water and sewerage undertakers (under s.190 of, and Schedule 25 to, the Water Act 1989 for National Parks and AONBs, under the Section 25 of the Broads Act 1988 for the Broads)
- Persons authorised to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of hydraulic power and a relevant airport operator (under s. 262 (1) of the Town & Country Planning Act 1990)

For National Park and AONB duties only:

- the holder of a licence under s. 6(1) of the Electricity Act 1989 (S.112(1) of, and Schedule 16 to, the Electricity Act 1989)
- public gas transporters (under s.16(1) of, and Schedule 4 to, the Gas Act 1995)
- a universal service provider (under s.76 of, and paragraph 93(x) of Schedule 4 to, the Post Office Act 1969)
- the Civil Aviation Authority (under s.19 of, and Schedule 2 to, the Civil Aviation Act 1982)
- the holder of a licence under Chapter 1 of Part 1 of the Transport Act 2000 (under s.37 of, and Schedule 5 to, the Transport Act 2000) (air traffic services)

For the Broads duty only:

- anyone who exercises functions under the Land Drainage Act 1991 (under Section 25 of the Broads Act 1988, this is primarily Internal Drainage Boards)
- any electronic communications code operator (under Section 25 of the Broads Act 1988)

7. Local authorities, committees and other authorities

County, District, Unitary and Parish Councils

National Park Authorities

The Broads Authority

Area of Outstanding Natural Beauty Conservation Boards

a joint committee (appointed under Section 102(1)(b) of the Local Government Act 1972)

Passenger Transport Authorities

Harbour Authorities

8. Others

The Crown Estate

Audit Commission

Verderers

The Electoral Commission