

YORKSHIRE DALES NATIONAL PARK AUTHORITY

25th July 2006**REVIEW OF THE TERMS OF REFERENCE OF COMMITTEES AND THE SCHEME OF DELEGATION****Purpose of the Report**

To present to Members a review of the terms of reference of Committees and the scheme of delegation to officers which I have recently carried out as Monitoring Officer; and to recommend certain changes, which I think will ensure that these essential documents are fit for purpose for the future. I am grateful to colleagues on Senior Management Team for their attention to detail in advising me on issues relating to their respective areas of responsibility.

The changes proposed are mainly to increase certainty about the meaning of provisions, and there is no proposal to change the fundamental balance of which decisions are taken by members and which by officers. The most important areas, it is suggested, are the proposed reformulation (and in some regards, extension) of the roles of the Access Committee and the Audit & Review Committee.

Strategic Planning Framework

The information and recommendation(s) contained in this report are consistent with the Authority's statutory purposes and its approved strategic planning framework. It is essential for any public body to have documents which accurately list all delegated powers and are effective in practice and soundly based in law.

Background

The Scheme of Delegation to Committees and Officers is one of the key documents regulating how the Authority does business. A copy of the existing Scheme is contained in the Members' Handbook (Section E), and Members may wish to refer to it as they read this report. A proposed completely revised version is attached as the appendix to this report.

One initial problem is that the powers of the Authority's Committees are currently set out in two different documents: the Committee terms of reference and the Scheme of Delegation. Both are intended to be comprehensive but, disconcertingly, their content is not the same. I have reviewed the Scheme of Delegation, but I mention below instances where the Committee terms of reference are different. **I suggest that, for the future, the Authority maintains just one document.**

General clauses

The Scheme of Delegation commences with seven general clauses. These are a collection of miscellaneous points, and I suggest that an improvement could be made firstly by grounding the provisions in the relevant legislation, and also by rewriting the existing text and adding some new points:

- Making clear that all delegated powers must be exercised in accordance with the Authority's policies;
- Introducing a logical hierarchy of delegation;
- Deleting the reference to Committees and Sub Committees appointing representatives to outside bodies (since this is done by the Authority);
- Allowing Committees and Sub Committees to delegate powers to any Head of Department and to the Solicitor / Monitoring Officer (presently they may only delegate to the Chief Executive); and
- Dealing with the issue of participation in decisions by individuals who have a personal interest.

The Appendix to this report contains my suggested rewrite of the general section of the Delegation Scheme (Section A).

Delegation to Committees

(a) Planning Committee (current Scheme A2; new Scheme B1)

Section A2 of the current Scheme deals with delegation of powers to the Planning Committee. The first paragraph (A2.1) is unnecessary in view of the general section.

Paragraph A2.2.1 needs to be rewritten with effect from this Authority meeting, to reflect the new role of the Planning Committee. I suggest that the existing paragraph be replaced by: "To exercise all development control and enforcement functions which are conferred upon local planning authorities and mineral planning authorities".

Paragraph A2.2.3 was written for convenience, given that the Planning Committee comprised all members of the Authority: it effectively allows the Planning Committee to take any urgent decisions (ie there would be no need to call a special Authority meeting). I suggest that **this should now be deleted**.

(b) Finance & Resources Committee (current Scheme A3; new Scheme B2)

The reference to Section 151 of the LGA 1972 in paragraph A3.1.1 is inappropriate, and should be removed. Section 151 relates only to financial responsibility at officer level.

Paragraph A3.1.1(e) should be amended to read "Advising the Authority in relation to its Members' Allowances Scheme, and dealing with related matters"; since, in my view, the scheme should be made by the full Authority, and not delegated to any Committee.

The Committee terms of reference contains a power for the F&R Committee which is not in the Delegation Scheme: "Monitoring in year the achievement of targets in the Authority's annual business plan". **I suggest this issue should be included in the Delegation Scheme, but it should be in the terms of reference of the Audit and Review Committee, and amended to refer instead to the BVPP, and with the responsibility to**

make recommendations to the full Authority on overall performance. Setting the BVPP targets is not in the proposed new Delegation Scheme at all, as the Authority performs this function itself.

(c) Audit & Review Committee (current Scheme A4; new Scheme B3)

A separate report on the agenda for this meeting addresses the future role of this Committee. This report seeks to pick up the issues, but any other points decided in debate on the other item will need to be included in the revised version of the Audit & Review Committee's role.

The Scheme of Delegation (para A4.1(a)) provides that Audit & Review Committee is responsible for arranging for the audit, both internal and external, of the Authority's *financial controls and accounts*. The words in italics are not in the Committee terms of reference, but they are appropriate to include amongst the functions of the Committee, since they cover the systems audit. However, the audit is wider than *just* financial controls and accounts, hence the wording suggested in the Appendix.

There is another anomaly at A4.1(c): according to the Scheme of Delegation, Audit & Review is responsible for "commissioning and receiving reports of value for money reviews of policy and programmes"; whereas the Committee terms of reference puts this function in the following terms: "Setting the Authority's policy for value for money reviews of policy and programmes, commissioning and receiving reports of such reviews". **It is suggested that policy in relation to VFM reviews should be set by the full Authority. Audit and Review Committee should, however, have a wider role in relation to the review of performance, and this is contained in the Appendix.**

The provisions of the two documents are also divergent in relation to the Committee's role regarding Best Value. The Delegation Scheme says: "act as lead Committee for Best Value preparation, report to the Authority on proposals for implementation and oversee the actual implementation". The Terms of Reference of Committees says "Reporting to the Authority, act as lead Committee on the Best Value Regime, including the introduction, implementation and monitoring of the National Park Authority's Performance Assessments and Best value Performance Plans". Neither is perfect. It is suggested that they are both replaced by: "Act as the lead Committee on the Best Value process, including the implementation and monitoring of the National Park Authority's Performance Assessment process".

(d) Appeals Committee (current Scheme A5; new Scheme B4)

According to the terms of reference of Committees:

In the event of an appeal needing to be determined by members, an ad hoc Appeals Committee will be established to determine the matter, its membership to be drawn from the full membership of the Authority, those members to have undertaken the necessary training.

According to the Scheme of Delegation:

The Appeals Committee is authorised to act on behalf of the National Park Authority in respect of the hearing and determining of disciplinary, grading and other appeals arising under the relevant conditions of service in respect of all the Authority's staff.

I suggest that both of these paragraphs are reproduced in the Scheme of Delegation.

(e) Access Committee (current Scheme A6; new Scheme B5)

With the help of colleagues from Park Management, a suggested rewrite of the responsibilities of the Access Committee has been undertaken, to ensure that they are fully up to date in relation to the CROW and NERC Acts. This **rewrite is shown in the Appendix.**

(f) Standards Committee (current Scheme A7; new Scheme B6)

New terms of reference for the Standards Committee were agreed by the Authority in March 2006. These are correctly reproduced in the Committee Terms of Reference, and need to be included in the single new document.

Delegation to Officers

(a) Chief Executive (existing Scheme Section B; new Scheme C1)

Section B1 of the Scheme of Delegation contains general provisions in relation to powers delegated to the Chief Executive. These general provisions are then repeated at Section C1, in relation to powers delegated to Department Heads.

The general provisions also overlap with provisions which are (or in my view ought to be) in the general clauses relating to delegation to Committees, so **I suggest having a single general section to the Delegation Scheme, as per Section A of the Appendix to this report.** That would replace Sections A1, B1, and C1 of the existing Scheme.

The general provisions leave slightly open the question whether they are intended to be general conditions relating to the specific delegated powers which then follow; or whether they go further, and effectively authorise the Chief Executive to exercise *any* of the powers or duties of the Authority, subject to compliance with the conditions. I assume they are not intended to be so wide, and my new wording would **remove any argument that the Chief Executive had such powers.** On the other hand, though, I would **suggest retaining the specific “urgency” power for the Chief Executive to act on behalf of the Authority,** this to be after consultation with the Chairman of the Authority or relevant Committee Chair (or, in their absence, their Deputy) in relation to any matter where an immediate decision is required; the action taken then to be reported back to Members (new Scheme C1.1)

The delegation of powers to the Chief Executive (and other Heads of Department) should also continue to include management of all the human, financial and material resources made available by the Authority for purposes defined in its approved policies, plans and budget (new Scheme C2.1)

Finally, there is a potential ambiguity in the wording regarding what happens when the Chief Executive is unavailable. This is corrected in the proposed text contained in the Appendix (A6) (Head of Park Management has the powers).

With regard to the specific powers delegated to the Chief Executive, the Personnel related powers are very widely expressed. This is not a problem as such, but **extra words do need to be added to “carve out” the role of the Appeals Committee (C1.2).**

With regard to entry and inspection powers, the Chief Executive is authorised to approve exercise of these powers. Later in the Delegation Scheme, under the Head of Planning, there is a list of officers authorised to exercise powers of entry and inspection. Such lists tend to get out of date, and it is tiresome to have to amend the Scheme of Delegation whenever job titles change. It is **suggested that this whole issue is dealt with by the Chief Executive being empowered to authorise exercise of these powers**, and then a list can be maintained that can be updated by the Chief Executive (new Scheme C1.3).

The powers of the Chief Executive in relation to property, and legal and procedural matters seem to me to be satisfactory in substance, though the wording can be improved in places. Paragraph B5.1(c) covers the same ground as A1.3, and I suggest that the former is not necessary. The **Legal and Procedural powers would also be more appropriately delegated to the Solicitor / Monitoring Officer rather than the Chief Executive**.

Finally, the Chief Executive is also given wide powers in relation to Planning. For some reason, the Head of Planning has the same powers, but would exercise them on the Chief Executive's behalf. **It would be better to remove those powers from the Chief Executive, and give them to the Head of Planning to exercise on his own behalf (as other Departmental Heads exercise their delegated powers)**. Again, the substance of these powers is satisfactory, though some minor changes of wording would be beneficial. For example, with regard to paragraph B7.2(e) (discretionary reference of matters to Planning Committee), though the substance is clear, this text should not be in the list of criteria which need to be met before delegated powers are exercised, but should be set out separately. Other proposed amendments are:

- B7.2(a): delete reference to North Yorkshire and Cumbria Structure Plans
- B7.2 (b), (c) and (d): **replace the reference to "observation" with "recommendation"**. Some consultees, whilst recommending that an application is approved, include negative remarks, which then raises a question as to whether these are "observations", and therefore whether the delegated power applies.
- B7.2(f): this provision removes officers' powers to determine a planning application if any member requests that it be referred to Planning Committee. Action 70(d) in the Best Value Performance Plan for 2006/07, agreed by the Authority at its last meeting, **adds the proviso that the Member has a specified reason for doing so**. This would be a new provision which emerged from Planning Performance Working Group, and would enable the Head of Planning, in reporting to Committee, to address the issue which led a Member to request that the matter be referred to Committee.

(b) Department Heads (current Scheme C1; new Scheme C2)

Paragraph C1 contains the general conditions of delegation to Department Heads. This section can be removed, all the issues being covered in the general conditions of delegation (as per the Appendix to this report). This also deals with the anomaly that the Solicitor to the Authority is not a Department Head.

Three specific powers are delegated to the Chief Executive and to all Department Heads. Rather than repeat the wording, I suggest that they are included in a delegation of powers to all Department Heads, with the Chief Executive being specifically recognised as a Department Head.

(c) Head of Finance and Resources (current Scheme C2; new Scheme C3)

No change, other than to suggest adding an additional power to authorise such financial returns on behalf of the Authority as are required by law or by competent authorities.

(d) Head of Planning (current Scheme C3; new Scheme C4)

[note: the headings refer to Head of Department posts, but the text then refers to various officers within Departments. It would be better to refer solely to the Heads of Departments, who may then choose to authorise particular officers to exercise some of the powers on their behalf].

The Head of Planning is authorised to issue Public Path Orders (Town and Country Planning Act 1990). This should be deleted, as the Solicitor already has delegated power to make these orders.

Paragraph C3.5 refers to the Planning Technician (Searches) as a Proper Officer in relation to Land Charge Searches. This post no longer exists as such, and the wording needs to be updated. The logical thing to do is to designate Senior Planning Technicians and Planning Technicians as Proper Officers.

Finally, it is suggested that the paragraph dealing with powers of entry and inspection is deleted from this part of the Delegation Scheme (see above).

(e) Solicitor (current Scheme C4; new Scheme C5)

Paragraph C4.2 is a power to make Definitive Map Modification Orders and Public Path Orders, but the wording is rather clumsily compressed, and does not cover consequential actions. **I therefore suggest that the existing paragraph be deleted and replaced by three new paragraphs:**

- * The Solicitor is authorised, after consultation with the Access and Recreation Manager and the Senior Definitive Map Officer as necessary, to decide whether or not to make a Definitive Map Modification Order under the Wildlife and Countryside Act 1981.
- * The Solicitor is authorised to decide to make or refuse to make Public Path Orders under the Highways Act 1980 or the Town and Country Planning Act 1990.
- * The Solicitor is authorised to confirm unopposed orders under the Highways Act 1980, the Wildlife and Countryside Act 1981 and the Town and Country Planning Act 1990; to submit opposed orders under the 1981 Act or the 1990 Act to the Secretary of State; and in respect of opposed orders under the 1980 Act, either to decide not to confirm them, or to submit them to the Secretary of State as opposed orders.

(f) Head of Park Management (current Scheme C5; new Scheme C6)

Paragraph C5.1(a) provides that the Head of Park Management is authorised:

“to carry out the responsibilities of the National Park Authority as Relevant and Access Authority contained within Part 1 of the Countryside and Rights of Way Act 2000 including authority to determine exclusions and restrictions in accordance with Countryside Agency Statutory Guidance. Where applications for restriction are exceptional, i.e. not covered by the Statutory Guidance, or where Statutory Guidance is unclear, a special meeting of the Access Committee will be convened to facilitate determination”

The wording of this could be improved in several places: for example what does “to facilitate determination” mean? **I suggest that this is rewritten as follows:**

“to perform the responsibilities of the Authority as Relevant Authority and as Access Authority under the Countryside and Rights of Way Act 2000, including authority to determine exclusions and restrictions in accordance with statutory guidance. Where statutory guidance does not apply or is unclear, the matter will be referred to the Access Committee for decision.”

There would then need to be a paragraph in the Access Committee’s terms of reference, authorising it to determine exclusions and restrictions referred to it by the Head of Park Management, and this is included in the Appendix (B5.3).

Paragraph C5.2(a) authorises the Access and Recreation Manager “to initiate order processes” in relation to certain matters. This is not clear, though in fact it is intended to refer to the function of deciding which order applications the Definitive Map Team should take forward (the Solicitor has power to actually authorise the order itself). This is an operational process, and accountability for decisions should be through normal management arrangements. It does not need to be mentioned in the Delegation Scheme.

Paragraph C5.4(d) authorises the Ranger Services Manager to “authorise agreements under Section 147 of the Highways Act 1980”. This section relates to the erection of stiles, gates etc on footpaths and bridleways. It would be better if the word “agreements” was replaced by “the use of powers”.

(g) Head of Conservation & Policy (current Scheme C6; new Scheme C7)

Paragraph C6.1(b) and (c) refer to the Farm Conservation Scheme. These are no longer necessary, and should be deleted.

Paragraph C6.1(f) contains power “to determine applications for works to trees covering Tree Preservation Orders” – this should read “covered by”

The reference to the “Hedgerow Notifications” in paragraph (j) should be to the “Hedgerow Regulations”

(h) Head of External Affairs (current Scheme C7; new Scheme C8)

The existing text can be simplified, with the Head of External Affairs being responsible for exercise of the powers, rather than merely consulted by other officers.

Conclusions

Almost all of the above points are of a technical or “tidying up” nature, rather than addressing fundamental issues about whether the Scheme of Delegation is fit for purpose. However, in my first 12 months with the Authority, I have not heard any suggestions that there are major problems with it. There is a drive following NPAPA to make the Authority more “Member led”. However, that does not imply any blurring of the principle that policy matters are best determined by Members, and operational ones by officers. There are

specific areas in which the roles of Members are being re-examined: these include Member “Champions”, the representational and ambassadorial role of Members; the future role of the Audit & Review Committee; and the member role in partnerships. Meanwhile, all officers with delegated powers need to bear in mind the possible need to refer sensitive matters to members for decision; to consult members as appropriate before taking decisions; and to inform them of decisions taken. The latter two can apply to members with specific roles, such as Committee Chairs and, in future, Champions; as well as Members who have a local interest in decisions.

RECOMMENDATION

That existing Terms of Reference of Committees and Scheme of Delegation be revoked, and be replaced with the new Scheme of Delegation which is attached as the Appendix to this report.

Richard Daly
Solicitor / Monitoring Officer

Background documents: YDNPA Committee Terms of Reference; YDNPA Scheme of Delegation

11th July 2006



YORKSHIRE DALES
National Park Authority

Appendix

***SCHEME OF DELEGATION
TO
COMMITTEES AND OFFICERS***

SCHEME OF DELEGATION TO COMMITTEES AND OFFICERS

A General Provisions

- A 1 This Scheme of Delegation is made by the Yorkshire Dales National Park Authority under Section 101 of the Local Government Act 1972. Any Committee to which powers are delegated may sub-delegate them to a Sub Committee or Officer of the Authority. Any Sub Committee may also sub delegate powers to an Officer. Any officer to whom powers are delegated may authorise other officers to exercise such powers on his/her behalf.
- A 2 Each Committee shall be authorised to appoint Members to Sub-Committees agreed by the Authority and to delegate its powers and duties to those Sub-Committees.
- A 3 Powers delegated to any Committee, Sub-Committee or Officer of the Authority shall always be exercised in compliance with the Authority's Standing Orders and Financial Regulations, except to the extent that they may be suspended in accordance with their terms. Conversely, this Scheme of Delegation operates to authorise Committees, Sub Committees and officers to take actions permitted to them by the Authority's Financial Regulations. Decisions taken under delegated powers shall be made in accordance with any applicable policies and strategies of the Authority, including its approved budget.
- A 4 In accordance with the Authority's Code of Conduct for Members, any Member with a personal interest in a decision will declare openly the existence and nature of that interest; and if the interest is prejudicial, the Member shall not take or participate in the decision. Officers will not take or participate in decisions in which they have a personal interest.
- A 5 No general reference to a power, duty, function or other matter in relation to one Committee shall include any matter which the Scheme of Delegation specifically refers to another Committee.
- A 6 In the absence of the Chief Executive, the Head of Park Management is authorised to perform any functions and exercise any powers conferred on the Chief Executive by this Scheme of Delegation.
- A 7 The Authority, or a Committee or Sub-Committee may give such direction as it considers appropriate for action taken under delegated powers to be reported periodically.
- A 8 Before exercising any delegated power, an officer should consider whether the nature of the matter to be determined makes it appropriate for the decision to be taken by the Authority, a Committee or Sub Committee, or by a Head of Department.
- A 9 Without prejudice to these delegations, each Officer with delegated powers is expected to liaise in appropriate cases with the Chief Executive, and in appropriate cases to:

- a) consult with the appropriate Committee Chairman (or in his/her absence the Deputy Chairman); and/or
- b) ensure that the local member (local authority or appointed) is advised of the exercise of delegated powers; and/or
- c) ensure that the Monitoring Officer and/or Section 151 Officer (Treasurer) is consulted or informed.

A 10 All delegations of responsibilities, powers and functions under this Delegation Scheme include power to authorise the execution or issuing of any document, or the taking of any other action, necessary to give effect to the decision, including affixing the Authority's seal to any document where necessary.

B Delegation of Powers to Committees

B 1 Planning Committee

B1.1 To exercise all development control and enforcement functions which are conferred upon local planning authorities and mineral planning authorities.

B1.2 To consider and report to the Authority upon any matter which the Authority may from time to time refer to the Committee.

B 2 Finance and Resources Committee

B 2.1 To act on behalf of the Authority in relation to the proper administration of the Authority's financial affairs, except as provided in (b) below, and including:-

- a) cash balances, capital or reserve funds, borrowing arrangements and the investment of any surplus funds;
- b) management and monitoring of financial forecasts and budgets and to make recommendations to the Authority regarding the annual allocation of resources;
- c) overseeing the application of the Local Government Superannuation Acts and associated regulations;
- d) ensuring that the Authority makes adequate insurance arrangements and to oversee its risk management strategy;
- e) advising the Authority in relation to its Members' Allowances Scheme and dealing with related matters.

B 2.2 To determine the Authority's personnel policies and monitor their implementation, including administration, recruitment, training, discipline (including dismissal), determination of wage and salary scales, health and safety, regrading, grievances, conditions of service and welfare of all staff and the legislation relating to industrial relations and pensions, except that the Authority shall be responsible for all matters concerning the appointment of the Chief Executive (National Park Officer).

B 2.3 To act on behalf of the Authority in relation to any matters, powers or duties concerned with the securing, management and disposal of the resources, including land, property and other assets, necessary to fulfil the Authority's statutory

purposes, agreed policies and strategic direction, including monitoring the efficient and effective use of these resources.

B 3 Audit and Review Committee

B 3.1 To act on behalf of the Authority as follows:

- a) reviewing the Authority's performance in pursuing its policies and objectives, in particular those in the Best Value Performance Plan; and reporting to the Authority, its Committees or Sub-Committees, as appropriate;
- b) act as the lead Committee on the Best Value process, including the implementation and monitoring of the National Park Authority's performance assessment process;
- c) lead on improvement planning and learning from major projects and on-going programmes;
- d) instigating a programme of reviews in areas where the Authority is under-performing, and report back to the Authority;
- e) advising the Authority on its corporate governance policies and agenda, and implementing and managing the Authority's agreed policies in this area;
- f) arranging for the audit, both internal and external, of the Authority's affairs, including financial controls and accounts;
- g) receiving all external and internal audit plans and reports, and monitoring the implementation of audit recommendations;
- h) monitoring the Authority's complaints procedure, and as appropriate, determining any claims of maladministration and appropriate remedies.

B 4 Appeals Committee

B 4.1 To act on behalf of the National Park Authority in respect of the hearing and determining of disciplinary, grading and other appeals arising under the relevant conditions of service in respect of all the Authority's staff. (In the event of an appeal needing to be determined by Members, an ad hoc Appeals Committee will be established to determine the matter, its membership to be drawn from the full membership of the Authority, those members to have undertaken the necessary training).

B 5 Access Committee

B 5.1 Management of the Definitive Map:

- a) receive details of delegated decisions relating to both Map Modification Orders and Path Orders (diversions, creations etc).
- b) determine those Map Modification Order applications which members consider so exceptional that, notwithstanding the scheme of delegation, they should be determined by members.

B 5.2 Management of Public Rights of Way

- a) receive reports on rights of way maintenance programmes and action plans.
- b) agree reports to the County Councils as part of the Highway Authority delegation agreements.
- c) agree changes to the delegation agreements relating to changes in legislation.
- d) agree the Authority's role in the production of Rights of Way Improvement Plans.
- e) make decisions relating to potential prosecutions for obstructions to rights of way under section 137 of the Highways Act 1980.
- f) receive reports on progress on the implementation of the Pennine Bridleway.
- g) agree and review the Authority's approach to the management of recreational vehicular use of 'green lanes' including the use of Traffic Regulation Orders and partnership working with the Highway Authorities.
- h) agree the making of permanent traffic regulation orders to manage the use of recreational motor vehicles under the Road Traffic Regulation Act 1984.

B 5.3 Management of Open Access:

- a) Receive details of delegated decisions relating to applications for exclusions and restrictions under the Countryside and Rights of Way Act 2000.
- b) Receive consultation responses from the Local Access Forum in response to applications for long term exclusions and restrictions under the Countryside and Rights of Way Act 2000.
- c) Receive reports on progress on the implementation of open access and maintenance programmes and action plans.
- d) Receive reports on dedication of land for public access under the Countryside and Rights of Way Act 2000.
- e) In cases referred to the Committee by the Head of Park Management, to determine exclusions and restrictions in relation to public access under the Countryside and Rights of Way Act 2000.

B 5.4 Access and Recreation provision:

- a) Receive reports and advice from the Local Access Forum.
- b) Agree the Authority's Access Strategy, and receive reports on the progress and implementation of the Strategy, including issues relevant to its

implementation, such as health, Access for All, recreation provision and management, traffic and transport.

- c) Agree the Authority's contribution of Local Transport Plans and Rights of Way Improvement Plans.

B 6 Standards Committee

- B 6.1 Promoting and maintaining high standards of conduct by the members of the National Park Authority, and any co-opted members on Committees.
- B 6.2 Advising the Authority on the adoption or revision of a code of conduct.
- B 6.3 Assisting members of the Authority, and any co-opted members on Committees, to observe the Authority's code of conduct.
- B 6.4 Monitoring the operation of the Authority's code of conduct.
- B 6.5 Advising, training or arranging to train members of the Authority, and any co-opted members on Committees, on matters relating to the Authority's code of conduct.
- B 6.6 Giving (or refusing to give) dispensations to members to remain in the meeting room, speak and vote on an item of business, notwithstanding that the member has a prejudicial interest in that matter.
- B 6.7 To conduct hearings in relation to any allegations properly referred to the Committee that any member of the Authority, or any co-opted member on a Committee, has failed to comply with the Authority's code of conduct; to make findings in relation to such allegations; and to impose sanctions in accordance with the law, where a breach of the code of conduct has been found to have occurred.
- B 6.8 To consider, and make recommendations to the Authority, with regard to any ethical or corporate governance issues arising in relation to:
 - a) The Authority's Standing Orders
 - b) The roles and responsibilities of members
 - c) Anti fraud and corruption policy
 - d) The Code of Conduct for members
 - e) Offers and receipt of gifts and hospitality
 - f) The Register of members interests
 - g) Training to enable members to perform their roles effectively.

C Delegation of Powers to Officers

C 1 Chief Executive (National Park Officer)

C 1.1 Urgent Action

The Chief Executive (National Park Officer) may authorise urgent action requiring an immediate decision on any matter, subject to consultation with the Chairman of the Authority or the Chairman of the appropriate Committee to which the function is delegated, and to a subsequent report to the Authority or Committee.

C 1.2 Personnel

The Chief Executive (National Park Officer) is authorised to act in relation to the appointment, dismissal, discipline and determination of all other matters relating to the employment of staff and the conditions upon which they are employed as are specified in the Personnel Manual and Policies of the Authority, other than in relation to those matters delegated to the Appeals Committee.

C 1.3 Entry and Inspection

The Chief Executive (National Park Officer) is authorised to approve the exercise of the Authority's powers of entry, inspection and survey of land, buildings or premises and may issue any necessary evidence or authority as may be appropriate in relation to the execution of officers' or the Authority's duties and powers.

C 1.4 Property

Within the provision of the financial regulations concerning capital payment and/or annual rental, the Chief Executive (National Park Officer) is authorised to:-

- a) approve the acquisition of land and taking of leases, licences, dedications and easements of or over any land (including buildings) whether by way of valuable consideration or exchange;
- b) declare land surplus to requirements;
- c) approve the disposal of land and the granting or variation of leases, licences, dedication of or over any land;
- d) arrange for sessional lettings of premises for periods of less than 24 hours;
- e) approve the submission of planning applications for development by or on behalf of the National Park Authority.

C 2 All Heads of Departments (including the Chief Executive)

C 2.1 Heads of Department are authorised to act in determining the management of the human, financial and material resources made available to their Department, for the purposes defined in the Authority's approved policies, Plans and Budget, and except as otherwise provided in this Scheme of Delegation.

C 2.2 Heads of Departments are authorised to act in relation to the appointment of staff at Band B and below, and in relation to the application of the Authority's personnel and management policies to all staff for whom they are responsible, except in relation to matters of discipline and dismissal and as provided in section C 3 below.

C 2.3 Heads of Departments are authorised to make or refuse financial grants in all circumstances where the Authority has power so to act. In exercise of this delegated power, the Head of Department will:

- a) act in accordance with the overall budgets and any scheme approved by the Authority or any of its Committees or Sub-Committees;
- b) maintain a register of all decisions made on all grant schemes administered within the Department, such registers to be open to inspection by any member of the Authority and any member of the public.

C 2.4 Heads of Department are authorised to sign grant claim forms and acceptance forms in relation to any project or matter which itself has been authorised by the Authority or under delegated powers.

C 3 Head of Finance and Resources

C 3.1 The Head of Finance and Resources is authorised to act in relation to:

- a) the extension of compassionate leave for any employee of the Authority;
- b) the approval of special leave for any employee of the Authority;
- c) the approval of car loans;
- d) the authorisation of relocation expenses;
- e) the approval of arrangements for employees of the Authority to undertake election duties;
- f) authorising such financial returns on behalf of the Authority as are required by law or by competent authorities.

C 4 Head of Planning

C 4.1 The Head of Planning is authorised to deal with all planning matters except the following:

- a) New mineral working or waste disposal sites, or extensions to existing sites not covered by extant planning permissions.
- b) Applications submitted on behalf of the National Park Authority, a Member or Officer of the National Park Authority or their immediate family.
- c) The authorisation of any Enforcement Notice, Stop Notice or prosecution.
- d) The determination of Lawful Development Certificate applications.

C 4.2 Delegated powers in respect of planning matters may only be used where the following criteria are met:

- a) that the decision will be in accordance with policy, and in particular the Yorkshire Dales Local Plan, the Yorkshire Dales Minerals and Waste Local Plan, and the Yorkshire Dales National Park Management Plan or, in cases where the decision will not be in accordance with policy, in the view of the Head of Planning any departure is not substantial and there are sound planning reasons not to comply with policy;
- b) that the appropriate District Council has not made a recommendation which is contrary to the decision which the Head of Planning proposes to take, provided that the recommendation has been substantiated;
- c) that the appropriate Parish Council or Meeting has not made a recommendation which is contrary to the decision which the Head of Planning proposes to take, provided that in the opinion of the Head of Planning the recommendation relates to a planning matter, and provided that it has been substantiated;

- d) that no statutory consultee has made an recommendation which is contrary to the decision which the Head of Planning proposes to take insofar as the aspects which concern the consultee are concerned, provided that the recommendation has been substantiated; and
- e) no Member has written to the Head of Planning requesting, for some specified reason, that the application be considered by the Planning Committee.
- f) Breach of Condition Notices and Planning Contravention Notices shall only be served by the Head of Planning after consultation with the Authority's Solicitor.

C 4.3 Notwithstanding the other provisions of the scheme of delegation, the Head of Planning shall refer matters to the Planning Committee for decision where, in his/her opinion, it is in the best interests of the National Park Authority to do so;

Note: *(a) consultees be informed that simply stating "objection" or "no objection" without any further comment or substantiation would, on its own, be insufficient to warrant that application being reported to the Committee; and*

(b) the consultation letter include a standard paragraph to indicate that an application may, subject to consultation responses, be dealt with as a delegated matter and that to ensure its consideration by the Committee, a request should be made to a Member of the Authority to specifically seek that course of action.

C 4.4 Senior Planning Technicians and Planning Technicians are authorised to act as the 'Proper Officer' for the purpose of Land Charge Searches.

C 4.5 The Head of Planning may authorise Section 106 agreements to restrict the occupancy of dwellings in accordance with approved Local Plan / Local Development Framework policies; to update / vary existing agreements to reflect current policy; and to provide for undergrounding of electricity and communications cabling.

C 5 Solicitor / Monitoring Officer

C 5.1 The Solicitor is authorised to:

- a) determine Lawful Development Certificate applications.
- b) after consultation with the Access and Recreation Manager and the Senior Definitive Map Officer as necessary, to decide whether or not to make a Definitive Map Modification Order under the Wildlife and Countryside Act 1981.
- c) to make or refuse to make Public Path Orders under the Highways Act 1980 or the Town and Country Planning Act 1990.
- d) to confirm unopposed orders under the Highways Act 1980, the Wildlife and Countryside Act 1981 and the Town and Country Planning Act 1990; to submit opposed orders under the 1981 Act or the 1990 Act to the Secretary of State; and in respect of opposed orders under the 1980 Act, either to decide not to confirm them, or to submit them to the Secretary of State as opposed orders.
- e) to empower the service of statutory notices to ascertain the legal interest of any person in land.

- f) to institute, defend or settle any legal proceedings in the name of the Authority or an individual Officer of the Authority at Common Law or under any enactment, statutory instrument, order or byelaw conferring functions upon the Authority or in respect of functions undertaken by them and to lodge an appeal against any decision taken in such proceedings. For the avoidance of doubt this authority extends to the taking of all procedural steps, including the service of notices, statutory or otherwise, counter-notices and Notices to Quit.
- g) authorise officers of the Authority to prosecute or defend or appear in any legal proceedings by virtue of the provisions of Section 223 of the Local Government Act, 1972 and to appear on behalf of the Authority at any inquiries, tribunal or other body responsible for matters affecting the Authority.

C 6 Head of Park Management

[Note: Any member may request that any 'access' matter, able to be dealt with under the following delegated powers, shall be considered and dealt with by the Access Committee.]

C 6.1 The Head of Park Management is authorised to act as follows:

- a) to perform the responsibilities of the Authority as Relevant Authority and as Access Authority under the Countryside and Rights of Way Act 2000, including authority to determine exclusions and restrictions in accordance with statutory guidance. Where statutory guidance does not apply or is unclear, the matter will be referred to the Access Committee for decision.
- b) to carry out the responsibilities of the National Park Authority contained within the Highway Authority delegation agreements with North Yorkshire and Cumbria County Councils, subject to the requirements detailed within the terms of reference of the Access Committee relating to Map Modification Orders
- c) to set car park charges
- d) to act as the 'Proper Officer' for the purpose of responding to notices served under the Highways Act 1980 Section 56
- e) to authorise Footpath and Bridleway public rights of way Creation Agreements
- f) to deal with motor rally consultations under the provisions of the Motor Vehicles (Competition and Trials) Regulations 1969
- g) to authorise temporary diversions or closures of public rights of way.
- h) to take action under the Highways Act 1980 to deal with obstructions to Public Rights of Way
- i) to authorise agreements under Section 147, Highways Act 1980
- j) to authorise motor trials on a public footpath, bridleway or byway open to all traffic
- k) to suspend access on Access Areas designated under the National Parks and Access to the Countryside Act 1949
- l) to grant temporary leases and licences for the ad hoc use of National Park Authority car parks
- m) to grant leases and grazing agreements in respect of National Park Authority owned land
- n) to authorise access agreements
- o) in consultation with the Woodland Officer, to negotiate new Woodland Management Agreements

- p) in consultation with the Woodland Officer, to authorise expenditure under Woodland Management Agreements.

C 7 Head of Conservation and Policy

C 7.1 The Head of Conservation and Policy is authorised to act as follows:

- a) to sign off and comply with appropriate assessments under the Conservation (Natural Habitats) Regulations 1994 and appropriate assessments carried out under arrangements agreed between the Countryside Agency and English Nature to address conservation issues arising from Part 1 of the Countryside and Rights of Way Act 2000;
- b) to authorise the making of Tree Preservation Orders (TPOs) where there appears to be a threat to important trees;
- c) to authorise the revocation of existing but outdated TPOs and their replacement with new Orders;
- d) to determine applications for works to trees covered by Tree Preservation Orders;
- e) to determine notifications for works to trees in Conservation Areas;
- f) to authorise the appointment of tree consultants and contractors;
- g) to authorise works to important hedges under the Hedgerow Regulations;
- h) to authorise the serving of Hedgerow Retention Notices;
- i) to authorise the making of Limestone Pavement Orders;
- j) to authorise the serving of emergency Limestone Pavement Orders;
- k) to authorise the serving of Building Preservation Orders;
- l) to authorise the serving of Listed Building Repairs Notices;
- m) to authorise the serving of Urgent Works Notices to preserve unoccupied listed building.
- n) to sign Woodland Management Agreements;
- o) to sign New Native Woodland Agreements.
- p) to determine that the criteria are not met or notification is not required under the Hedgerow Notification provisions;
- q) to determine that a hedgerow is 'not important' against the Hedgerow Notification Criteria.

C 8 Head of External Affairs

C 8.1 The Head of External Affairs is authorised to set prices and charges for External Affairs activities, including retail merchandise, retail publications and services, exhibitions and events, education resources, services and associated events, and admission charges and charges for museum services.