



THE ASSOCIATION OF ELECTORAL ADMINISTRATORS

Formal response to the consultation published by Defra on the proposed changes to National Park governance

1. Introduction

- 1.1. This is the formal response from the Association of Electoral Administrators (AEA) to the consultation published by Defra inviting comments on the proposed amendments to primary legislation in order to effect changes to National Park governance in England.
- 1.2. The Association of Electoral Administrators (AEA) was founded in 1987 and has since established itself as a professional body to represent the interests of electoral administrators in the United Kingdom. It is a non-governmental and non-partisan body and has some 1740 members, the majority of whom are employed by local authorities to provide electoral registration and election services.
- 1.3. The AEA encourages and provides training and education in electoral administration, in addition to a range of commercial and professional services.
- 1.4. The key **aims** of the AEA are to:
 - contribute positively to electoral reform within the UK;
 - foster the advancement of consistent and efficient administration of electoral registration and the conduct of elections in the UK;
 - raise the profile of electoral administration both within the UK and internationally;
 - enhance and maintain the AEA's reputation as the leading professional body for electoral administrators within the UK.
- 1.5. The AEA supports and advocates two key principles set out by Gould (*Independent Review of Scottish Parliamentary and Local Government Elections*, Ron Gould, 2007) in his report on the 2007 elections in Scotland, namely that:
 - all those with a role in organising elections should consider the voters' interests above all other considerations: and

- electoral legislation should not be applied to any election held within six months of the new provision coming into force.
- 1.6 In responding to this invitation to submit views, and in accordance with the AEA's non-partisan and neutral position, this response does not offer any views on the merits or otherwise of the proposed governance arrangements. Our focus is on the practical implications of the proposals in terms of electoral administration. Therefore, we do not offer any comment on Q1, Q2, Q11, Q12, Q13, Q14, and Q15. For the same reason, we have answered some questions in part and specified on which issues we do not wish to comment. We have grouped the questions into related topics as seem appropriate.

2. Timing of the proposed pilot elections

- 2.1. It is proposed that 'pilot' elections be held for the New Forest and Peak District National Park Authorities in May 2013 to coincide with local government elections. Applying the Gould principle cited above, this will mean having the legislation necessary for the conduct of the proposed elections in place by the beginning of November 2012.
- 2.2. In order to achieve this, we understand from the consultation proposals that the following work would need to be undertaken:
- Key policy decisions to be made in the light of the feedback to the current consultation;
 - An Order made under section three of the Public Bodies Act, to change primary legislation;
 - A consultation at some point in 2012 within each of the two proposed pilot areas in advance of Statutory Instruments being made to introduce directly elected members in those National Park Authorities;
 - Secondary legislation drafted and brought into effect to set out the detailed rules for conduct of the proposed elections including arrangements for combination of polls;
 - Boundary work including establishing wards within the National Park Authority areas, and decisions made regarding polling districts;
 - A legal framework for campaigning and the regulation of expenses brought into effect; and
 - Arrangements for public awareness work to explain the new elections to eligible electors.
- 2.3. This would appear to the AEA to be overly ambitious given the timescales and based on recent difficulties experienced by Government in terms of having the necessary legislation in place at least six months prior to elections being held, e.g. secondary legislation for the Police and Crime Commissioner elections to be held in November 2012. We are extremely concerned about the potential

for late arrangements which introduce unnecessary risk into the process of delivering not just the proposed elections, but also any other polls with which they are combined.

- 2.4. Given the significant amount of work to be undertaken, the Government may wish to set out all of the above in a timeline including allowing time for the relevant statutory officers to coordinate the planning and delivery of the proposed elections. This should include clarity on the cross-Government work required to ensure consistency of arrangements with other electoral events. In addition, the Government should clarify who will take forward the necessary work on establishing the boundaries for the proposed elections and whether this is currently part of any scheduled work plan.
- 2.5. As a result of this work, the Government should give serious consideration to identifying a later date for the pilot elections. In doing so, that consideration will need to include the following;
- The proposal to move the annual canvass from autumn 2013 to spring 2014 and the impact that this will have on the currency of electoral registration data in autumn 2013;
 - Individual Electoral Registration (IER) is to be introduced in early 2014;
 - There are local elections and the European Parliamentary elections in 2014, probably in June; and
 - The UK Parliamentary General Election and local elections (including to parish councils) are in 2015.
- 2.6. The AEA has created a road map for electoral services 2012 - 2016¹ which the Government may find of assistance in understanding the number and frequency of electoral events and the scale of change facing electoral administrators during that period. We comment on this further in the section on combination below.

3. The legislative framework

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

- 3.1. The AEA notes that the proposed changes to primary legislation do not contain detailed local operational issues relating to the elections, and this is in line with the legislative framework for elections generally. We welcome the commitment to base the arrangements for the proposed elections on existing procedures for local elections which should provide familiarity for both electoral administrators and for voters.

¹ http://www.aea-elections.co.uk/downloads/aea_elec_services_roadmap_with_groups_210512_v16.pdf

- 3.2. We would expect Defra to work with Cabinet Office officials on drafting the secondary legislation for the arrangements for the proposed elections in order to ensure consistency across electoral legislation. We would welcome the opportunity to discuss these detailed arrangements with Government officials. We reserve the right to comment further on the arrangements contained within the secondary legislation for the conduct of these elections when this becomes available.
- 3.3. It is proposed that the usual voting channels - in-person polling station voting, postal and proxy voting - are available to electors at the proposed elections. This is voter focused and would enable voters at the proposed elections to have a choice in terms of voting channel and supports access to the electoral process. However, there are practical considerations that will need to be addressed in terms of establishing areas for in-person polling. We address this issue in section 8 of this response in relation to establishing boundaries, wards and polling districts.
- 3.4. There will need to be clarity as regards the role, responsibilities and powers of a 'lead' Returning Officer within both of the National Park Authorities in order to ensure effective coordination given that there are a number of different local authorities (and therefore local Returning Officers) either wholly or partly within the National Park Authority areas. For example, it is proposed that there will be flexibility in deciding whether the polls at the proposed direct elections are combined with polls at other elections. Who makes that decision? Is it to be a matter of consensus and agreement between the various statutory officers? A decision will also need to be made about which election has supremacy as this is important in ensuring the proper conduct of elections where the polls are to be combined.
- 3.5. The arrangements will also need to provide clarity on how the costs of the elections will be met and accounted for across the various authorities involved. There is more on funding in section 9 below.

4. Combination

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

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

- 4.1. There is an increasing trend for multiple electoral events to be held on the same day with resulting pressure on those tasked with delivering them, and with potentially unforeseen implications for voter participation. The AEA

remains concerned that this issue is not being considered in a structured and holistic manner across Government departments with ever more polls being proposed to involve electors on a range of local issues from neighbourhood planning, levels of council tax and possibly direct elections to National Park Authorities.

- 4.2. The UK Government indicated in its response² to the report on the administration of the 2010 UK Parliamentary General Election (UKPGE) that it would look at the present rules governing the combination of polls as part of its wider consideration of the governance and administration of the UK electoral process. We would welcome clarity on the scope of that consideration and recommend that it includes the implications of holding multiple electoral events on the same day and the combination issues that arise from this, both for voters and for statutory officers and electoral administrators.
- 4.3. In terms of the proposed elections to National Park Authorities, flexibility as to whether the polls at these elections are combined with the polls at other electoral events will be essential. This may include casual vacancies or by-elections, in addition to any scheduled elections such as the shire county elections in 2013.
- 4.4. In considering combination issues, it is vital that the forms and notices to be used at the proposed elections are consistent with those for any other polls being held at the same time. The AEA understands that the Government intends to review and modernise election forms and notices with the aim of producing more accessible designs in line with the work undertaken by the Electoral Commission for the referendums in 2011, and the Home Office for the Police and Crime Commissioner Elections in November 2012. Assuming that the forms and notices for local government elections (principal areas) are to be reviewed and modernised, it will be essential for Defra officials to coordinate their work with that programme of modernisation.

5. Piloting and evaluation

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.*

- 5.1. It is difficult to answer this question as there is little information as to the purpose of the piloting other than the very general statement 'to evaluate the

² <http://www.cabinetoffice.gov.uk/sites/default/files/resources/administration-of-2010-uk-general-election.pdf> , page 7.

efficacy' of direct elections. We are equally unclear as to what an evaluation of the pilots would encompass and would want to know more about what is to be included within the scope of any such evaluation and who will be responsible for carrying out the evaluation before commenting on the value of piloting.

- 5.2. Paragraph 3.13 refers to the collection of 'baseline data' but we do not know what kind of data is envisaged. There is a reference to 'drawing on results from resident surveys' and 'periodic data collection' during the pilot. It might appear from this that the piloting and evaluation is intended to be in respect of public satisfaction with having directly elected members.
- 5.3. However, in paragraph 3.9, reference is made to the elections being in two National Park Authority areas (New Forest and Peak District) to 'allow experience to be gained *of the operation of direct elections* and will allow evidence to be gathered in England...' [our emphasis]. This would seem to indicate that the evaluation would, at least in part, consider the administration of the direct elections. We would welcome clarification on this point.
- 5.4. If piloting is undertaken, there needs to be a clear set of aims and objectives set out in the public domain along with the scope and methodology to be employed in any evaluation to ensure that it is robust and any lessons learned. If there is to be any evaluation of the practical issues arising from the administration of the elections, it will be essential to consider many of the issues raised in this paper relating to boundary arrangements and combination with other polls, for example.
- 5.5. We would expect the outcome of the evaluation to be published and a public consultation before any roll-out of direct elections to other National Park Authorities.

6. The franchise and the electoral registers to be used at the elections

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

If you disagree, please explain your reason.

- 6.1. We note that only those people registered to vote at local elections at an address within the National Park Authority area will be eligible to vote in the proposed direct elections.
- 6.2. A number of practical issues will need to be addressed in relation to compiling the registers for these elections given that most National Park Authority areas encompass a number of local authority areas or part thereof. These authorities may operate different electoral registration software systems. In some cases, the areas involved are extremely small in terms of electorate. This has an

impact also on the arrangements for in-person voting and the compilation of polling station registers. There will need to be careful and planned coordination across the National Park Authority area in terms of the provision of electoral register and absent voting data.

6.3. The AEA does not comment on the choice of electoral system.

7. Candidacy and the nomination process

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.

- 7.1. The AEA does not agree or disagree with the proposal that the Government should place no geographic limitations on where a candidate can live or the reasons for this view given in paragraph 3.17 of the consultation paper. However, we make the following observations.
- 7.2. It may be that the intention is to follow the UK Parliamentary model. The consultation paper also sets out a proposal for the elected members to represent specific areas within the park area. There are practical consequences that flow from dividing the park area into wards and we comment on these in section 8 below.
- 7.3. If a non-resident can stand for election, then the relevant forms and notices will need to be modelled on the UK Parliamentary forms rather than those for local elections. It could be argued that this is contrary to the intention stated in paragraph 3.10 for elections to be held 'using the existing procedures for the conduct of local elections'.
- 7.4. We express no view on whether serving councillors from principal area councils or from parish councils should be allowed to stand for election or, conversely, disqualified from standing for election to the proposed directly elected seats. However, if the decision is to prevent such councillors from standing it may be advisable to include on the consent to nomination form for the elections a

declaration that the candidate is not disqualified for this reason. The matter would need to be clarified in the legislation in such a way that there was no room for doubt, e.g. if there was a County Councillor who represented a Division which was not within the National Park area, would that person be disqualified under such a rule?

- 7.5. It would also need to be entirely clear whether a person could stand for election and if elected, resign from the other body.
- 7.6. In addition it would need to be clear that the Returning Officer is not responsible for checking the information so declared and that this would be for others to challenge if they were aware of a disqualification that had not been declared. Therefore, the provisions of S65A RPA 1983 or similar provisions should apply to the proposed National Park Authority elections.

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?

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.*

- 7.7. If it were decided to limit elected representatives to eight years (two terms in practice) with a gap of three years before they could stand again, it might be advisable for there to be some form of declaration on the consent to nomination that they are not disqualified for that reason.
- 7.8. It would need to be clear that the Returning Officer is not responsible for checking the information so declared and that this would be for others to challenge if they were aware of a disqualification that had not been declared. Therefore, the provisions of S65A RPA 1983 or similar provisions should apply to the proposed National Park Authority elections.

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.

- 7.9. We disagree and set out our reasons below.
- 7.10. In our 2010 report we questioned the need for candidates at UK Parliamentary elections to have ten people subscribe their nomination. To stand as a candidate at elections to the Scottish Parliament requires the nomination form to be signed by the candidate and a witness to the candidate's signature. To stand as a candidate at elections to the National Assembly for Wales requires only one subscriber to sign the nomination form.
- 7.11. Removing the requirement for subscribers on nominations across all types of elections would make the nomination process much simpler and more efficient both for candidates and agents and for Returning Officers, and remove the need for checks on subscriber details. This is separate from and need not affect the requirements for deposits at various elections which are primarily a device to deter frivolous candidates from standing.
- 7.12. The Electoral Commission reviewed the nomination process and included this option in its report, *Standing for election*, published in 2003. We understand that the Electoral Commission may undertake a further review of the nominations process and, if this is the case, the AEA will respond to any consultation that is undertaken as part of that review. We will also report on the arrangements proposed for the forthcoming PCC elections.
- 7.13. Whatever the outcome of such a review, there is considerable inconsistency across different types of elections. In addition, the nominations process continues to challenge both independent and party candidates and their agents as is evidenced by the quality of nominations submitted to returning officers and the errors that are consistently made or problems encountered in respect of subscriber details. For example, where subscribers have subscribed too many nominations, or where elector numbers have been incorrectly recorded on the form. These are unhelpful and unnecessary barriers to participation and create an administrative burden.

8. Boundaries, wards and polling districts

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 this because you believe:

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

- 8.1. As we have indicated earlier in this response there is currently no clarity on who will do the work on establishing boundaries, including warding, for these elections, nor is there any estimate of timescales for doing this work.
- 8.2. Whilst wards would provide administrative units for the purpose of by-elections, the issue of warding raises a number of questions:
 - Would the ward boundaries be coterminous with any local government boundaries? A lack of coterminosity creates administrative complexity.
 - What principles (beyond one member warding) would underpin the boundary work?
 - How would the features within the National Park Authority be considered? For example, what significant landmarks, residential areas etc. would be contained within each area?
- 8.3. Establishing boundaries is always a complex issue often with a diversity of local views on what should or should not be included in any given area and so the questions above are significant. For this reason, the work ought to be undertaken by an independent body and there should be a period of public consultation on any proposed boundaries. In the event of direct elections being rolled out to other National Park Authorities, will this same body continue to have responsibility for establishing and periodically reviewing the boundaries and wards? There would also need to be clear rules in place as to how boundaries are to be created and how future reviews are to be undertaken.
- 8.4. In addition to the issue of warding, if there is to be in-person voting, polling districts will need to be determined and polling places and stations identified. AEA members have raised concerns about the feasibility of establishing polling districts on the fringe of the National Park Authority areas and about issues of coterminosity. In some cases, there are local authorities with only part of a number of polling districts within the National Park Authority area. Within some of those parts of polling districts there are as few as three properties. Establishing an area of that size in terms of eligible electorate as a polling district for the proposed elections each with its own polling station would not be efficient or cost-effective.
- 8.5. Once boundaries, wards and polling district arrangements have been decided, sufficient time should be allowed for the necessary changes to electoral registration software to incorporate these and to ensure the correct parts of the registers from the various local authority areas are prepared and provided for the elections.

9. Funding the administration of direct elections

- 9.1. We understand from the consultation document (paragraph 3.12) that the outline costs in the range of £100,000 - £200,000 are based on an assumption that the polls at the pilot elections will be combined with the polls at the shire county elections. Can we assume that this cost is per National Park Authority area given that the comparison with a UK Parliamentary constituency is provided as a benchmark? The cost of all-postal elections is estimated as being up to £300,000. It is recognised that the estimated costs will depend on the level of turnout and 'the extent to which polling stations can be operated jointly with the shire county elections in that year'.
- 9.2. We do not know what data has been used to arrive at these estimates, or what other assumptions are included, and so we cannot comment on whether the estimates are realistic. Do the figures include, for example, the cost of establishing boundaries as well as the costs of creating new registers and the administration of the elections themselves?
- 9.3. We note that Defra 'will meet the costs of these two initial elections, and any by-elections that may arise within the first four year period'. If these elections were to be repeated or extended to other National Park Authorities, the costs would be considered in the next Spending Review (April 2015 onwards).
- 9.4. The AEA has concerns about the ongoing funding of these elections, both in the pilot areas, but also in the event that direct elections are rolled out to other National Park Authorities. We will be looking for clarity about how any future funding is provided and which body will be responsible for this. Our concern is to ensure that the funding reaches the statutory officers tasked with delivering any such future elections and that it is sufficient to provide the resources necessary for the effective delivery of those elections.

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30 May 2012