



NEW 
NATIONAL
PARKS

INFORMATION **NOTES**

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1. Planning powers and functions in National Parks

Scotland currently has two National Parks (covering 7.3% of the land area). The first National Park to be set up in Scotland was Loch Lomond and the Trossachs (in 2002), followed by the Cairngorms in 2003. Cairngorms National Park was extended in 2010, to incorporate a portion of Perthshire.

National Parks in Scotland and throughout the UK are classified by the World Conservation Union (IUCN) as a Category V protected landscape or seascape. This means they are areas which have distinct character and significant ecological, biological, cultural and scenic value which should be safeguarded through a balanced interaction between people and nature.

[Section 10](#) of the National Parks (Scotland) Act 2000 sets out the planning functions that could be conferred on a National Park Authority. These include:

- the National Park authority being the planning authority for the area of the Park;
- the National Park authority being the planning authority only in respect of development plan preparation;
- the National Park authority having planning functions that are set out in the Designation Order. This could include, for example, the possibility of the planning function remaining with local authorities in the area, with the National Park authority being given statutory powers as a consultee; and
- no planning functions being conferred on the National Park authority.

The two existing National Parks have different powers and planning functions which are established in the Charters (Designation Orders) creating them.

[Loch Lomond & Trossachs'](#) (LL&T) planning powers are the same as a local authority, covering development plans, development management and enforcement.

- It is responsible for producing a National Park local development plan (LDP). Alongside Scotland's Fourth National Planning Framework¹ (NPF4), this forms the statutory development plan which guides new spatial development and informs planning decisions in the National Park.
- LL&T National Park Authority is also responsible for deciding all planning applications in the National Park area. It typically deals with around 300 applications per year, including householder developments, proposals for housing, tourism and listed building alterations.

[Cairngorms National Park Authority](#) (NPA) has more limited planning powers than Loch Lomond & the Trossachs.

- The NPA is responsible for producing a National Park local development plan to set out planning policies and provide a framework for the use and development of land across the National Park.

¹ [National Planning Framework | Transforming Planning](#)

- However, the majority of planning applications within Cairngorms National Park area are decided by the five local planning authorities (Aberdeenshire, Angus, Highland, Moray and Perth & Kinross). The NPA can 'call in' and decide those applications which it considers to be important to the National Park.

The four aims of National Parks in Scotland (in the National Parks (Scotland) Act 2000) are to:

- conserve and enhance the natural and cultural heritage,
- promote sustainable use of the natural resources,
- promote understanding and enjoyment of the area's special qualities, and
- promote sustainable social and economic development of the area's communities

These aims are to be pursued collectively. However if there is a conflict between the first aim and any of the others then greater weight must be given to the first aim. Planning decisions should reflect this weighting. Part 264A of the Town and Country Planning (Scotland) Act 1997 states, "*In the exercise, with respect to any land in a National Park, of any power under the planning Acts, special attention shall be paid to the desirability of exercising the power consistently with the National Park Plan as adopted*".

The 2000 National Park Act requires authorities to have regard to the National Park Plan, which sets out the management strategy for the Park, including when preparing their Local Development Plans (LDPs). Furthermore, planning legislation requires an authority preparing a development plan for a National Park, or which affects a National Park, to pay special attention to the desirability of consistency with the National Park Plan, having regard to the contents.

Inconsistency with a relevant adopted National Park Plan is one of the three reasons in legislation whereby a planning authority may decline to follow a recommended modification made following examination of the LDP.

National Planning Framework 4 and onshore wind

Following extensive consultation and engagement and approval by the Scottish Parliament, Scotland's Fourth National Planning Framework (NPF4) was adopted and published on 13th February 2023. Currently, NPF4 policy 11b) sets out that development proposals for wind farms in National Parks and National Scenic Areas will not be supported.

To ensure any new National Park addresses the climate emergency and supports progressive development, our appraisal framework guidance for National Park nominations signals our intention to develop new bespoke planning policy on onshore wind to be applied in new National Parks. This

means that a new National Park will be treated differently to existing National Parks with respect to NPF4 policy for onshore wind.

The Planning Act allows us to amend the National Planning Framework and the process for making amendments to NPF4 will be covered in new regulations which we will consult on and which we expect to bring forward early in the new year.

In practice, we would not make any change of substance without appropriate evidence, engagement and consultation. Any changes would be subject to any relevant statutory and other impact assessment requirements.



LOCH LOMOND AND THE TROSSACHS NATIONAL PARK// PHOTO PRODUCED BY LATERAL NORTH

2. Governance of National Parks

National Park authorities are established as executive non-departmental public bodies (NDPBs) under the provisions of the National Parks (Scotland) Act 2000 (“the 2000 Act”).

National Park authorities operate at arms lengths from Scottish Government and are accountable to the Scottish Parliament. The relationship with government is set out in a Framework Agreement between National Park authorities and Scottish Ministers. Scottish Ministers meet regularly with the two existing National Park authorities.

National Park authorities receive funding from Scottish Government in the form of Grant in Aid, which they use to deliver the statutory National Park aims and other functions and duties conferred on them by the 2000 Act.

The role of each National Park authority is to co-ordinate the delivery of the four statutory National Park aims, and in this way ensure a sustainable future for the National Park area. The National Park aims are:

- (a) to conserve and enhance the natural and cultural heritage of the area;
- (b) to promote the sustainable use of the natural resources of the area;
- (c) to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; and
- (d) to promote sustainable economic and social development of the area's communities.

Each National Park authority is also required to prepare a five-year National Park Partnership Plan. These overarching management plans set out how all those with a responsibility in each park, across public, private and voluntary organisations will coordinate their work to address the most important issues in relation to conservation, visitor experience and social and economic development.

National Park authority boards provide leadership and agree the overall direction of the National Park. They also oversee the work of the National Park staff. Boards are made up of:

- members that are appointed by Scottish Ministers;
- members that are elected locally (by postal ballot of the local electorate); and
- members that are nominated by the local authorities in the park area and then appointed by Scottish Ministers.

Members that are elected locally (by postal ballot of the local electorate) bring to the board their understanding, knowledge and perspective of the National Park’s local communities and businesses.

Members appointed by Scottish Ministers bring a national perspective to the board and specific experience and expertise across a range of subjects relevant to National Parks including nature conservation and ecology, climate change

mitigation and adaptation, outdoor recreation, rural economic development, planning and land use, education and business management.

Members that are nominated by the local authorities in the park strengthen the relationship between the National Park and its partner local authorities. They also bring their local authority perspective and expertise to the board.

The board is led by a Convener and Deputy Convener. They are both elected by board members from among the board's membership.

The size and constitution of National Park authority boards is set out in [schedule 1](#) of the 2000 Act.

Loch Lomond & the Trossachs National Park authority (LL&TNPA) has 17 board members:

- 6 members appointed by Scottish Ministers;
- 5 members elected locally; and
- 6 members nominated by the local authorities in the park area (Argyll and Bute, Stirling, West Dunbartonshire and Perth and Kinross) and then appointed by Scottish Ministers.

The Convener of LL&TNPA is Dr Heather Reid, who was appointed to the board by Scottish Ministers. The Deputy Convener is Martin Earl, who was appointed to the board following nomination by Stirling Council.

Cairngorms National Park authority (NPA) has 19 board members:

- 7 members appointed by Scottish Ministers;
- 5 members elected locally; and
- 7 members nominated by the local authorities in the park area (Highland, Aberdeenshire, Moray, Angus and Perth and Kinross) and then appointed by Scottish Ministers.

The Convener of Cairngorms NPA is Sandy Bremner, who was appointed to the board by Scottish Ministers. The Deputy Convener is Eleanor Mackintosh, who was elected to the board by local residents within Cairngorms National Park.

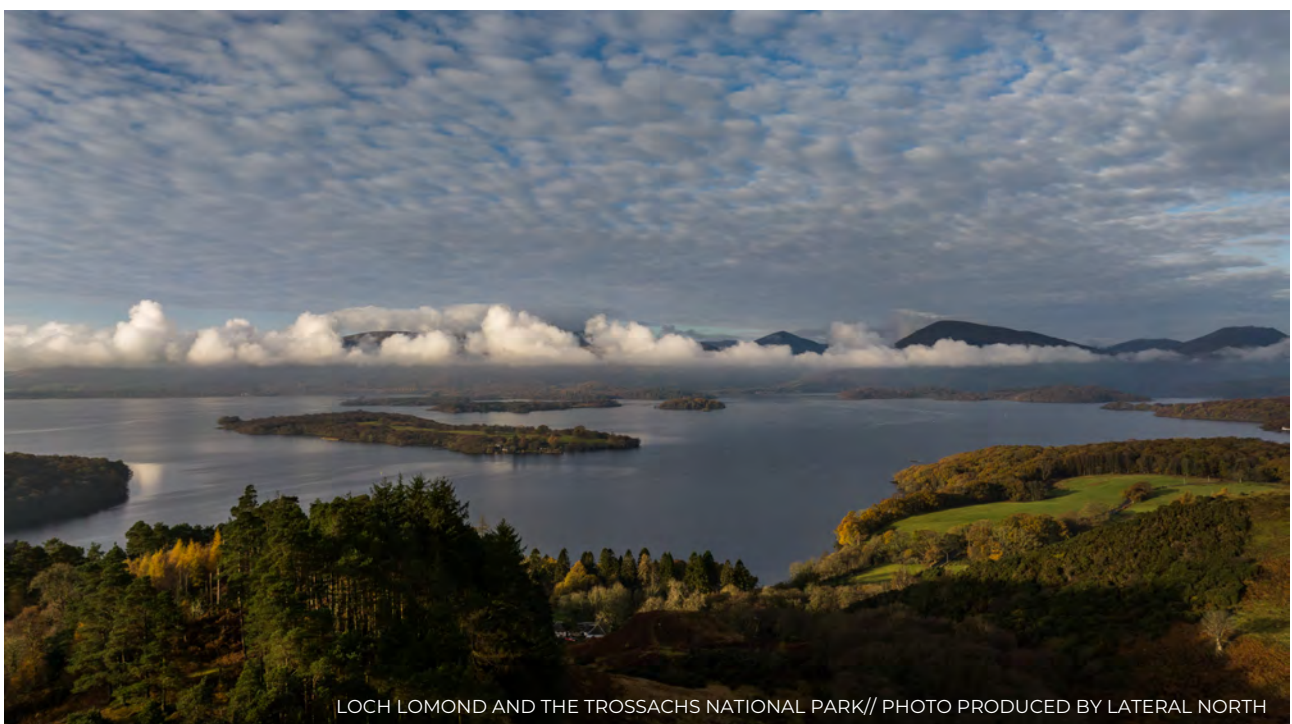
3. Consultation on proposed changes to the National Parks legislation

Work is underway to prepare for a new Natural Environment Bill to be introduced to the Scottish Parliament in 2024, subject to formal approvals. This Bill will put in place legislative changes to restore and protect nature, including statutory targets for nature restoration and a framework for setting, monitoring and reporting on these targets. Subject to final decisions by Ministers, the Bill could also seek to update and make changes to the National Parks (Scotland) Act 2000.

On 7 September 2023, Scottish Government launched a 14 week [public consultation](#) on Scotland's Biodiversity Framework and elements of the proposed Natural Environment Bill. This consultation includes proposed changes to the National Parks legislation in order to strengthen the leadership role of Scotland's National Parks in tackling the climate and biodiversity crises whilst also welcoming visitors and supporting local communities and businesses. The consultation also suggests changes to the size and composition of National Park authorities in order to provide bold leadership on nature restoration and climate action, and to maximise the efficiency, diversity and skillset of National Park authority boards.

The proposed amendments to the National Parks legislation are set out in detail at Annex A.

The consultation is due to close on 14 December 2023. Scottish Government will carefully consider the responses to the consultation before coming forward with any draft provisions to be included in the forthcoming Natural Environment Bill.



Annex A

Scottish Government consultation on proposed amendments to the National Parks (Scotland) Act 2000

Background

It is 20 years since Scotland's first two National Parks in Loch Lomond & Trossachs and Cairngorms were created. They are home to some of the country's most outstanding scenery, they host precious habitats such as Atlantic rainforest and high altitude moorland and grassland and they support thousands of rare and internationally important birds, mammals, insects, fungi and plant species.

Both National Parks support the communities living within them, they promote local employment and they welcome, educate and manage millions of visitors. For example, Cairngorms National Park attracts over two million visitors each year and tourism is a very important aspect of the local economy, accounting for around 43% of employment in the area. Cairngorms Connect, the UK's largest habitat restoration project, employs over 60 members of staff and has generated around £3.9 million of investment.

Scotland's National Parks are more important now than ever before. Sadly, the evidence tells us that Scotland, in common with the rest of the UK, has not done enough over the last 20 years to prevent the continuing decline in biodiversity. The 2019 State of Nature Scotland report indicated that 49% of Scottish species have decreased in abundance and 11% of species are threatened.

Working with partners and their local communities, our National Parks can be exemplars in contributing towards Scotland's ambitious targets to halt biodiversity loss by 2030 and reverse declines by 2045. Equally, they have a vital role to play in the transition to a net zero economy in a way that is fair and inclusive for local people.

National Parks can help drive the adoption of nature-based solutions – such as restoring degraded peatland and expanding woodland – in order to reduce carbon emissions and adapt to the effects of climate change in a way that is fair and inclusive to those living and working in their areas. They can encourage nature friendly farming, forestry and marine use. They can support sustainable tourism and visitor management. They can support their local communities, for example by creating new employment opportunities and promoting green skills and jobs. And they can help to generate and channel inward investment into the precious natural resources in their areas.

That is why the Scottish Government has committed to the designation of at least one new National Park in Scotland by 2026.

Current legal framework for National Parks

Loch Lomond & Trossachs National Park Authority and the Cairngorms National Park Authority were established as executive non-departmental public bodies

(NDPBs) under the provisions of the National Parks (Scotland) Act 2000 ("the 2000 Act").

The 2000 Act sets out four National Park aims:

- (a) to conserve and enhance the natural and cultural heritage of the area;
- (b) to promote the sustainable use of the natural resources of the area;
- (c) to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; and
- (d) to promote sustainable economic and social development of the area's communities.

The role of each National Park authority is to co-ordinate the delivery of these four statutory National Park aims, and in this way ensure a sustainable future for these areas. Each park authority is required to prepare a five-year National Park Partnership Plan. These plans set out how all those with a responsibility in each park, across public, private and voluntary organisations will coordinate their work to address the most important issues in relation to nature, people and place.

Section 9(6) of the 2000 Act states that, if it appears to the National Park authority that there is a conflict between the National Park aims, the authority must give greater weight to the first aim (to conserve and enhance the natural and cultural heritage of the area).

Each park authority is governed by a park authority board. The role of the board is to agree long term objectives for the National Park and to govern the work of the park authority. Park authority boards are made up of members that are appointed by Scottish Ministers, members that are elected locally and members that are nominated by the local authorities in the park area.

Proposed Changes

In 2022 the Scottish Government consulted widely on the future of National Parks in Scotland. The analysis of these public consultations can be found [here](#) and [here](#).

These consultations have shown that many people want to see new National Parks in Scotland. Recent public opinion surveys in Scotland indicate that 89% of people support the creation of new National Parks and that 74% of people want to see more nature restoration within National Parks.^[5] The consultations have also highlighted the important leadership role of National Parks in tackling the interlinked crises of climate change and biodiversity loss, whilst also welcoming visitors and supporting local communities and businesses.

It is therefore important that both existing and new National Park Authorities have the legal framework and powers they need to fulfil this leadership role. It is also important that existing and new National Parks have effective and efficient governance, ensuring that the membership of their boards is diverse, that it reflects and represents local communities whilst also bringing relevant skills, expertise and experience into the organisation. And it is essential that the legal framework which sets out the overarching purpose and aims of our National

Parks is fit for purpose in order to respond to today's societal challenges, in particular the interlinked biodiversity and climate crises.

Purpose of National Park Authorities

The current purpose of a National Park authority in Scotland, as set out in the 2000 Act (see section 9(1)), is "to ensure that the National Park aims are collectively achieved in relation to the National Park in a coordinated way".

Given the urgency of the biodiversity and climate crises, and the leadership role of National Parks, we are proposing that, in addition to the collective achievement of the National Park aims, the statutory purpose specifically refers to nature restoration and tackling climate change.

Aims of National Parks

In order to support the proposed new purpose of Scotland's National Park authorities, we are also proposing to make some changes to the statutory National Park aims. The proposed changes are summarised in the table and explained in more detail below.

| Existing National Park aims: | | Proposed National Park aims would seek to: |
|--|---|--|
| To conserve and enhance the natural and cultural heritage of the area. | 1 | Protect, restore and enhance the natural assets, biodiversity and ecosystems within the National Park |
| | 2 | Protect and enhance the cultural heritage and historic environment assets within the National Park |
| To promote the sustainable use of the natural resources of the area. | 3 | Promote the sustainable management of the area's natural resources to maximise the benefits for the environment, climate, economy and people. |
| To promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public. | 4 | Promote public understanding and enjoyment of the area's natural and cultural assets, supporting sustainable tourism and visitor management, inclusion and improved accessibility for all. |
| To promote sustainable economic and social development of the area's communities. | 5 | Promote the sustainable economic, social and cultural development and wellbeing of the area's communities. |

First National Park aim

Currently, the first National Park aim is "*to conserve and enhance the natural and cultural heritage of the area*".

We propose updating the language and having two separate aims along the following lines so that these aims would seek to:

- (i) Protect, restore and enhance the natural assets, biodiversity and ecosystems within the National Park;
- (ii) protect and enhance the cultural heritage and historic environment assets within the National Park;

Second National Park aim

Currently the second National Park aim is "*to promote the sustainable use of the natural resources of the area*". In light of the leadership action that is required of Scotland's National Parks to restore nature and tackle climate change in a way that is fair and inclusive to individuals and communities living and working within the park area, we propose changing this aim along the following lines so that the aim would seek to:

- (iii) promote the sustainable management of the area's natural resources to maximise the benefits for the environment, climate, economy and people.

Third National Park aim

Currently the third National Park aim is "*to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public*".

Scotland's existing National Parks attract millions of visitors each year and they work hard to improve accessibility, inclusion, visitor safety and responsible tourism. Given the importance of biodiversity and the natural environment to our physical and mental health and wellbeing, we propose changing this aim along the following lines so that the aim would seek to:

- (iv) promote public understanding and enjoyment of the area's natural and cultural assets, supporting sustainable tourism and visitor management, inclusion and improved accessibility for all.

Fourth National Park aim

Currently the fourth National Park aim is "*to promote sustainable economic and social development of the area's communities*".

Our National Parks are ideally placed to help support the necessary transition to a greener economy in a way that is fair and inclusive to local communities. This includes supporting the growth of nature-based jobs and skills, investing in the area's natural capital and working with communities and businesses to help them transition to net zero whilst supporting and developing the local wellbeing economy.

Therefore, we propose changing the fourth National Park aim along the following lines so that the aim would seek to:

(v) promote the sustainable economic, social and cultural development and wellbeing of the area's communities.

The National Park 'principle'

Section 9(6) of the 2000 Act states that "*if, in relation to any matter, it appears to the authority that there is a conflict between the National Park aim set out in section 1(a) and other National Park aims, the authority must give greater weight to the aim set out in section 1(a)*" (that being the aim to conserve and enhance the natural and cultural heritage of the National Park area).

We propose retaining this principle and applying it to the amended first aim that we are proposing (that is, to protect, restore and enhance the natural assets, biodiversity and ecosystems within the National Park). This would allow greater weight to be given to the protection and restoration of natural assets, biodiversity, and ecosystems within the National Park if there was a conflict between the aims.

Relevance of the National Park aims and the National Park principle to other public bodies operating within National Parks

National Park authorities work in partnership with a wide range of public sector bodies and other organisations operating within the National Park area in order to achieve the National Park aims and to implement National Park plans. To support the collective achievement of the National Park aims, we propose that public bodies operating within the National Park should have regard to the National Park aims and the National Park principle.

This duty would apply to public bodies operating in National Parks for a purpose that is devolved to Scotland. The duty should not conflict with or displace responsibilities that are the primary remit of these public bodies.

Duty on public bodies to support implementation of National Park Plans

Section 14 of the 2000 Act states that National Park Authorities, local authorities and any other public body or office holder must, in exercising functions that affect a National Park, have regard to the National Park Plan.

National Park Plans are the management plans for National Parks and they are approved by the Scottish Ministers. These plans are developed by the National Park Authority in collaboration with public bodies and other partners operating within the National Park area.

We propose that this duty on public bodies should be strengthened so that public bodies operating within the National Park have an obligation to actively support and contribute to the implementation of National Park Plans, for

example in relation to expanding woodland, restoring peatland and important habitats, maintaining the fabric of historic buildings, developing nature-based jobs and skills, encouraging nature-friendly farming, addressing housing needs, managing visitor pressures, improving public transport and active travel and increasing accessibility.

This duty would apply to public bodies operating in National Parks for a purpose that is devolved to Scotland. The strengthened duty should not conflict with or displace responsibilities that are the primary remit of these public bodies.

General powers of National Park Authorities

The powers and functions of each National Park are set out in the relevant designation order for that Park. National Park authority powers include management rules, byelaws, land acquisition powers, managing access to the countryside and planning powers. For example, Loch Lomond and the Trossachs National Park authority is responsible for deciding all planning applications in the National Park area. The planning system in the Cairngorms National Park is managed by the National Park authority and the five local authorities which operate in the National Park area, with the Park Authority 'calling in' and deciding those applications which are big or particularly important to the National Park.

Enforcement of byelaws

National Park Authorities have the power to create byelaws in order to protect the natural and cultural heritage of the area, to prevent damage to the land and to ensure public safety and enjoyment in the National Park. The purpose of these byelaws is to prevent irresponsible behaviours with formal enforcement being a last resort.

Examples of existing byelaws in Loch Lomond & Trossachs National Park include measures to tackle anti-social behaviour, and to improve public safety on Loch Lomond. The National Park Authority has recently consulted on a series of changes to the existing Loch Lomond byelaws in order to make further safety improvements in response to changing recreational uses and to minimise potential danger to the public from irresponsible navigation.

Currently, the only way to enforce the byelaws is through reports to the Crown Office and Procurator Fiscal Service (COPFS). Prosecutors in Scotland have a range of options for dealing with reported offending, including taking no action, warning letters, financial penalties, diversion from prosecution, as well as commencing court proceedings.

An alternative, proportionate and streamlined approach to byelaw enforcement could be provided by empowering National Park Authorities to be able to issue fixed penalty notices for byelaw breaches. These powers could ensure improved compliance and behaviour change while also providing a more proportionate means of enforcement when needed. Staff in Loch Lomond & the Trossachs National Park already have the powers and many years of experience in issuing

Fixed Penalty Notices for littering offences under an amendment to the Environmental Protection Act 1990.

We are therefore proposing that National Park authorities should be given the power to be able to enforce the contravention of National Park byelaws by issuing fixed penalty notices.

Governance of National Parks

Scotland's existing National Parks are each governed by a National Park Authority (known as a "board"). The role of the board is to set the strategic direction of the National Park, to agree its long-term objectives and to direct the work of the authority in line with the National Park aims and the National Park Plan. Boards are currently made up of members that are appointed by the Scottish Ministers, members that are elected locally and members that are nominated by the local authorities in the park area. The size and composition of boards is set out in schedule 1 of the 2000 Act.

In order to provide bold leadership and ensure that National Parks are at the forefront of efforts to restore nature and tackle the climate crisis, it is essential that National Parks have effective and efficient governance. National Park Authority boards should be large enough to ensure diversity, a broad range of relevant skills and local representation. However, they should not be so large that decision making is difficult and costs to the taxpayer are disproportionate for the size of the public body.

Cairngorms National Park Authority currently has 19 members whilst Loch Lomond & Trossachs National Park Authority has 17 members. These boards are much larger than other Scottish public bodies such as the Scottish Environment Protection Agency (which currently has 10 members), Visit Scotland (which currently has 8 members), Historic Environment Scotland (which can have between 10 and 15 members) and Scottish Enterprise (which can have between 8 and 11 members).

We propose making the following changes to the size and composition of National Park authority boards given their increasing importance and in order to balance local representation with the relevant skills, expertise and experience required to successfully lead a National Park authority.

- (i) The board should have no fewer than 8 members and no more than 15 members.
- (ii) Approximately half of the board's membership should be comprised of (a) members elected through direct elections to the board (i.e. members elected in a poll in an electoral area wholly or partly within the National Park); and (b) members nominated by local authorities in the National Park.
- (iii) Approximately half of the board's membership should be directly appointed by the Scottish Ministers based on their skills, experience and their national perspective on issues facing National Parks including biodiversity and climate action.

(iv) As far as possible, greater diversity should be achieved across each board's membership, with consideration given to the protected characteristics set out in the Equality Act 2010.

(v) The Convener and Deputy Convener should continue to be nominated from the board's membership. However we are proposing that Scottish Ministers should have the final say over these appointments.

(vi) The exact size and detailed composition of each National Park authority's board should be set out in the relevant Designation Order for that National Park.



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