

NatureScot's consultation on National Parks (3) – how to reform them

Description

NatureScot's consultation on National Parks closes today. In my view the most important section of the online survey ([see here](#)) is about the powers and functions of National Parks (questions 13-16). Get this right and there would be no need to resort to "green" finance as the means to address the undoubted problems in our National Park as is proposed at the start of the survey ([see here](#)).

Unfortunately, the four questions are posed without any background analysis of why Scotland's existing National Parks have been failing, what has been down to failed leadership/political will – a lot, as evidenced by the camping byelaws which diverted the Loch Lomond and Trossachs National Park Authority (LLTNPA)'s attention and resources away from the state of nature almost 10 years – and what has been down to a lack of appropriate powers. The second stage of the review of National Parks which was scheduled to consider these issues ten years ago and might have provided a reference point for such an analysis never happened.

Nor is there any description in the survey of the existing powers of National Parks, most of which are set out in Schedule 2 to the National Parks Act ([see here](#)). That makes constructive comment even more difficult.

Tucked away, however, in the meeting papers for the Stakeholder Advisory Group from August – and not referenced in the survey – is a short paper on the potential for Scotland's National Park Authorities (NPAs) to be given new powers ([see here](#)). The suggestions it makes, which are grouped into three options, provide a useful starting point:

Table 1 - Options for change

Option	Aims	Powers/functions
A. Minor change – National Parks strengthened	A national vision of strategy for National Parks is developed by Scottish Government Rewording of existing aims to reflect the vision and current policy priorities	<ul style="list-style-type: none"> Apply section 9(6) to all public bodies in the National Park or to at least all relevant public bodies. Change the duty to 'have regard to' Parks Plans to a duty to 'support the implementation' of Parks Plans. Simpler disposal of minor byelaw breaches through giving National Parks Fixed Penalty Notice powers for some offences. Require greater coordination of management of the public estate in National Parks. Build in National Parks to the priorities of SG funding schemes.
B. Significant Change – National Parks empowered	A national vision of strategy for National Parks is developed by Scottish Government Rewording of existing aims to reflect the national vision and current policy priorities Inclusion of an overarching purpose for National Parks to secure nature recovery and positive contributions to climate change adaptation and mitigation.	As above, plus <ul style="list-style-type: none"> Designate strictly protected nature protection zone/s or nature recovery zones within National Parks (equivalent to IUCN Category 2). Update approach to management rules in National Parks to provide a set of enforceable standards relevant to each Park in line with their Park Plan. Require higher standards for all public land in National Park. Use National Parks to manage and distribute SG funding schemes.
C. Step Change – National Parks rebooted	A national vision of strategy for National Parks is developed by Scottish Government Inclusion of an overarching purpose for National Parks to secure nature recovery and positive contributions to climate change adaptation and mitigation. Reduce aims to first one and change the other three aims "to have regard to" duties.	As above plus <ul style="list-style-type: none"> Remove or simplify existing designations in National Parks. Simplify management of public land within National Parks – for example by transferring more land to the National Park in the designated core areas. Require land purchasers in advance of buying land in the Park to lodge a proposed management plan with the NPA for approval. Create a dedicated integrated funding scheme for the implementation of National Park Plans.

Much of the suggestions here are welcome although most of them do not go far enough, for example:

- The need to apply higher standards to all public land in National Parks is demonstrated by Scottish Forestry still applying the UK Forestry Standard ([see here](#)), designed to support industrial forestry, in National Parks while Forest and Land Scotland constructs inappropriate roads willy nilly under the Prior Notification system. But why not also apply higher standards to PRIVATE landowners?
- The proposal for “strict nature” zones, where nature is allowed to rewild, should be central to the purpose of national parks but this needs to be accompanied by a zoning system for other land in our National Parks as I argued in my second post on the consultation ([see here](#)).
- The case for reforming the designation system in our National Parks is strong, as the current system has been generally ineffective and often offered a barrier to enabling nature to regenerate (for example NatureScot requires some landowners to burn moorland to preserve it as such!). However, any reform of designations MUST increase the level of protection from damaging developments like the Cononish goldmine (operating above a Special Area of Conservation and partly in a Wild Land Area) and damaging land-management practices. An alternative is likely to take considerable time to develop.

What is lacking from all the options, however, are any proposals that would give Scotland’s NPAs real power over how land is managed and used. Without such powers they will continue to fail even with new aims, new leadership, etc etc.

Requiring prospective land purchasers to lodge a land-management plan for approval in advance of

buying land doesn't deal with existing land-owners within National Parks. The Cairngorms National Park Authority (CNPA) did try and encourage sporting estates to lodge land management plans, but where they have done so these are generally very sketchy and many failed to do so. Meanwhile the LLTNPA's attempts 10 years ago to create Integrated Land Management Plans fizzled out. All landowners should have to develop such plans and where they don't the NPAs should have the power and resources to step in and buy the land. While they already have the power to purchase land compulsorily, the legislation should be amended to clarify that this power can be used where land-owners are failing to meet the statutory aims of our National Parks.

Scotland's NPAs could also use their bye-law making powers to exert far more control over how land is managed. Creating conservation byelaws would, however, generally be a very time-consuming process and while our NPAs could have used their powers to lead the way on ending muirburn and bringing deer numbers under control, those issues are better addressed by creating new laws at the national level. Our NPAs should, however, under that legislation be given powers to set standards/requirements for their areas and to enforce this. This would avoid the ridiculous situation that has existed over the last ten years where the CNPA had adopted a target density for red deer across the Cairngorms which was then undermined at Caenlochan by Scottish Natural Heritage agreeing a much higher density with landowners.

Where it would be appropriate for NPAs to create conservation byelaws is where different rules should apply in a National Park. For example, the importation of game birds is incompletely incompatible with the creation of strict nature zones and it would be quite reasonable therefore for NPAs to introduce measures to ban this practice around such zones.

I hope these thoughts may prompt some last minute responses to the consultation but it should be clear far more public debate and thought is required about what new powers our National Parks really need. While the CNPA made a number of good points in their draft response to the consultation ([see here](#)), the only suggestion they made in respect of new powers is that as an Access Authority they might take on certain powers relating to Rights of Way that still reside with Scottish Ministers. Nothing on land-use, but then their board includes a number of members with land-owning interests!

While questions relating to new powers will take time to sort out, meantime Scottish Ministers could be doing a lot to improve how our National Parks operate, including who they appoint to the boards! Question 18 is about these governance matters, which I have blogged about frequently on parkswatch, but thought it might nevertheless be worth sharing my draft response for those interested. Despite the list, it is far from comprehensive!

18. Are there any changes you would want to see to the governance and management arrangements of all National Park Authorities?

Yes, many, including:

1) Democratise the boards

- a) Local representation. Democratise the current voting system for local elected members, replace first past the post which has resulted in people being elected on 20% of those voting, with a transferable voting system.
- b) Require Councils to hold elections among their members for who they wish to represent them on the NPA board before submitting nominations to Scottish Ministers to try and reduce the number of people being nominated as a result of political patronage.
- c) Reform the system for Ministerial appointments so no nominee is automatically re-appointed (as has just happened for LLTNPA) and allow/encourage national interest groups such as Scottish Environment LINK to make nominations. Independently vet ministerial appointments to ensure they are signed up the aims of our National Parks. Require all ministerial appointments to live within reasonable travelling of the National Park (Board Members should be out and about in National Parks to see what is being done in their name) and not in places like Darlington and London as at present.

2) Improve board openness and transparency

- a) Require all National Park Authorities to provide email accounts for Board Members (the LLTNPA has refused to do this to date) so members of the public can contact them – this is essential for accountable and to enable Board Members to scrutinise what staff do.
- b) Webcast all board meetings (since Covid this now happens for most Board Meetings) and leave them for public to see for up to a year – as happens in most Local Authorities. Everyone who wants should be able to watch and listen to Board discussions and this should not be limited to those who happen to be free when those meetings are held
- c) End board secrecy.

i) Far too many matters are discussed in confidential session, particularly in the LLTNPA, which was able to hold 13 board meetings in secret to discuss the camping byelaws with no recourse. A recent example is the decision it made to relinquish the lease on the National Park visitor centre in Balloch without any public discussion. This is wrong. If there are matters – such as deciding on tenders or personnel issues – that require to be discussed in confidence by the Board to protect the identity of those concerned, once the deliberations have finished the decisions should be made public.

ii) All key Board/NPA documents should be public – the LLTNPA, for example, has ceased to publish its risk register and discussion about this is now always held in confidential session.

3) Return power from staff to the board in the LLTNPA.

Far more decisions are taken by staff in the LLTNPA than in the CNPA. For example planning applications are very rarely considered by the Planning Committee in the LLTNPA whereas in the CNPA all planning applications are decided by the board. As a result in the CNPA there are far more examples of officers recommendations being overturned, which is good for democracy. Another example is staffing where in the LLTNPA the Chief Executive has the power to create and end jobs whereas in the CNPA these decisions are decided through a staff group. In the LLTNPA the Board is not even asked to investigate complaints against their Chief Executive, this is delegated to a member of staff whose ultimate boss is the Chief Executive and is thus in no position to conduct an independent investigation.

One way our NPAs might be improved is if all suggestions from the public for improvement had to be considered by the board rather than being batted away by staff as at present.

If the LLTNPA board is not prepared to take on more, the time commitment for which they are paid should be cut from three days a month to one. Board appointments should not be a sinecure and board members should have to earn their fees.

4) Improve public information and data as an aid to transparency and accountability.

The LLTNPA has a long history of trying to keep things secret and, while it has been forced to improve, there is a significant way to go. For example it does not automatically publish responses to FOI requests but chooses which to publish even where it has been required to release information by the Information Commissioner.

Information relating to discussions about land-use, which is key to both National Park's success is particularly poor so for example discussions between the CNPA and sporting estates, which sometimes leads to grant funding etc, is almost entirely off record as are the LLTNPA's discussion with Forest and Land Scotland, if any. If the public, including local communities, do not know what is going on, it is almost impossible to lobby/put pressure on our NPAs to improve.

Related to this lack of information data and research information is generally poor though again there has been far more effort to collect data about nature and sponsor research in the CNPA than there has in the LLTNPA.

5) Planning.

a) As stated above, the way the planning committee in the LLTNPA operates should be reformed so board members are involved in more planning decisions.

b) The CNPA should be required to extend the timescales the public have to comment on planning applications from 28 days, the statutory minimum, until the time the application is ready to be decided as happens in the LLTNPA. If Flamingo Land was in the CNPA, most of the objections to both the first and current applications would never have been published.

c) Both National Parks should be asked to publish information relating to planning applications post decision date as a matter of course (under public pressure this now sometimes happens for controversial developments like the Cononish goldmine and Cairn Gorm funicular repair). Information about what happens after approval would assist the public in helping to monitor applications and help ensure developers adhere to planning conditions

d) Both National Park Authorities should be learning from mistakes and highlighting the need for national research and guidance where required e.g. the CNPA has failed to do anything as yet to learn the lessons from the failed Gynack overflow channel (cost to Highland Council of £100k) while the LLTNPA has failed to review run of hydro schemes which have been beset by problems because of design flaws, inappropriate locations etc.

6) Protection of public assets.

Most land in National Parks elsewhere in the world are publicly owned and we need to increase the

amount of such land in Scotland. Scottish Ministers should therefore create a presumption that land owned by all public authorities in National Parks should be held in perpetuity. There are many examples of land being disposed of that are contrary to the public interest: FLS's outsourcing of the Glen More campsite and sale of Ewich Forest, through which the West Highland Way Runs; Scottish Enterprise's Exclusivity Agreement with Flamingo Land; the LLTNPA current attempt to dispose of Luss Visitor Centre. Scottish Ministers could issue a direction to all public authorities in National Parks to ensure public land should remain public and ensure that where there is a case for leasing or disposing of a facility there is consultation with the local community first and they are given first option.

7) Treatment and empowerment of the workforce and contractors.

The LLTNPA is a particularly closed organisation which has made it almost impossible for staff to whistle blow (e.g. by keeping contacts of Board Members secret) and made it difficult find out what is happening. However, it appears staff are very constrained in what they can do by procedures and there is very little opportunity for them to take their own initiative. Surveys never reflect the number of disgruntled staff and the LLTNPA always comes out as a model employer despite increasing numbers of staff being employed on precarious contracts. The desire to extract every last penny from contractors may also explain why a number of the LLTNPA's leases have collapsed

8) Access matters and the Local Access Forums

Again the LLTNPA has a far worse record on this with the CNPA, with the LAF not meeting during the whole period the camping byelaws were developed or during the Covid lockdown – precisely the times it should have played a crucial role. The LLTNPA has failed to deal with the unlawful access signs for over ten years while the CNPA has continued to allow grouse moor owners to put up signs suggesting people need to keep to the path, completely contrary to the Right to Roam. The LAFs have a statutory role to advise the NPAs as Access Authorities on access rights but at present are under their contro. The NPAs appoint LAF members and decide when they meet. This is wrong and counterproductive, the value of advice is when it is independent. Scottish Ministers should direct the NPAs to make their LAFs independent, with stakeholders deciding who should sit on them and the LAF themselves deciding when to meet and what they should do. Access staff should be servants to the LAFs, not their masters.

Category

1. Cairngorms
2. Loch Lomond and Trossachs
3. National Parks

Tags

1. CNPA
2. LLTNPA
3. planning
4. Scottish Government
5. scottish natural heritage
6. secrecy

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