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To Chief Executives (local authorities)

Clerks to Police, Joint Fire and Passenger Transport Authorities

Please circulate to: Chief Planning and Countryside Officers

Areas of outstanding natural beauty: conservation boards

Encloses question and answer guide to assist local authorities involved in the establishment of AONB conservation boards.

Contact: Information Centre 0207 664 3131 info@lga.gov.uk

Dear Colleague

The Countryside Rights of Way Act 2000 enables the Secretary of State for the Environment, Food and Rural Affairs to establish Areas of Outstanding Natural Beauty conservation boards where there is a clear need.

Together with the Department for Environment, Food and Rural Affairs the LGA has produced the **attached** question and answer guidance note which should assist local authorities who are involved in the consideration of the establishment of such boards. The guidance provides a simple explanation of the legislation and how it is likely to be applied in England. It is not a comprehensive description of the Act. It also gives details of where advice can be sought.

Yours sincerely

AREAS OF OUTSTANDING NATURAL BEAUTY – CONSERVATION BOARDS

A GUIDE FOR LOCAL AUTHORITIES: QUESTIONS AND ANSWERS prepared by the Department for Environment and rural affairs and the Local Government Association

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Introduction

This guidance note sets out a number of questions and answers about the establishment of AONB conservation boards. The Countryside and Rights of Way Act 2000 enables the Secretary of State for Environment, Food and Rural Affairs to establish boards where there is a clear need. This note provides a simple explanation of the new legislation and how it is likely to be applied within England. It is not, and is not meant to be, a comprehensive description of the Act. The guidance will be updated as lessons are learnt from the formation of the first conservation boards.

1. Where are conservation boards likely to be established?

AONBs vary considerably in terms of their character, size and administrative complexity. It is important that each has the management arrangements which meets its local circumstances. Conservation boards are primarily (though not exclusively) intended for large, multi-local authority AONBs. For such an area, a single body may be more effective than several local authorities attempting to co-ordinate across a large geographical area. The Government is clear that the introduction of the statutory conservation board model should not diminish the standing of other, non-statutory AONB management arrangements (eg. joint advisory committees). These will remain entirely appropriate to the great majority of AONBs.

2. What are the potential benefits of a conservation board?

Conservation boards are primarily about management efficiency, effectiveness and stability for large AONBs. An independent board with a wide representative membership has the potential to be an influential advocate for its AONB. Its status may also mean it is more able to attract support, including financial, from a variety of sources. A conservation board may greatly benefit AONB partners by providing a stable and confident executive group and chairman. Conservation boards will also have specific powers, shared with or transferred from local

authorities to act directly in pursuit of AONB purposes, as well as a general power to act as necessary.

3. What duties would a conservation board have?

A conservation board, in exercising its functions, has a duty to ‘have regard’ to the purpose of conserving and enhancing the natural beauty of the area. A board has a duty to ‘have regard’ to that purpose, and a second duty of increasing the understanding and enjoyment of the special qualities of the AONB. Where there is a conflict between the two duties the former is to be given greater weight.

Conservation boards are also required to seek to foster the economic and social well being of local communities, but without incurring significant expenditure in doing so. This requirement mirrors that which exists for National Park Authorities. Conservation boards should use this provision to:

- ensure that local, social and economic strategies (including the community strategies required by the Local Government Act 2000) support AONB purposes and management plans; and
- promote the social and economic benefits of the AONB designation in a way which supports the sustainability of the landscape e.g attracting appropriate inward investment which will not compromise an area’s special character.

Sections 37 and 38 of the Countryside Act 1968 (protection of the countryside and avoidance of pollution) apply to conservation boards as they do to local authorities.

The conservation board also has the duty to prepare a management plan for the AONB, a task which would elsewhere fall to local authorities.

4. What powers would a conservation board have?

The legislation gives a conservation board the power to do anything that facilitates either of the two duties. A conservation board can act widely and proactively, and not to be limited just to the management functions specifically identified in their establishment order. Under Schedule 14 to the Countryside and Rights of Way Act 2000, conservation boards will also have the power to acquire (although not by compulsory purchase), hold and dispose of land. These powers may be added to, amended, or constrained, by the terms of conservation board establishment orders.

5. How would the membership be selected?

Conservation boards are corporate bodies with members appointed by constituent local authorities, local parishes, and nationally appointed by the Secretary of State. The number of members on a board will be stipulated by its establishment order. Details of the three categories of membership are as follows:-

- **local authority membership:** at least 40% of the members must be from local authorities. These members must represent authorities wholly or partly within the AONB. Establishment orders will in each case specify the distribution, either particular numbers from particular local authorities, or appointments made through a scheme in the order. The ‘scheme’ option is intended to allow authorities to share members, appoint them in rotation,

etc. Local authorities need to agree how their seats should be allocated before the establishment order is made;

- **parish membership:** at least 20% of members will be drawn from parishes partly or wholly within the AONB. A parish member can be the chairman of a parish meeting where no separate parish council exists. It is expected that establishment orders will set out a scheme by which the parishes can decide on and appoint their members;
- Local authority and parish members will represent AONB-wide views and not just the interests of their own authority or parish;
- **national membership:** the remaining members (maximum 40%) will be appointed by the DEFRA Secretary of State in consultation with the Countryside Agency to reflect the national status of the AONB designation. Appointees may hold office for between 1-3 years and may be re-appointed.

DEFRA will set up a procedure for making Secretary of State appointments to boards. The Nolan principles on standards in public life will apply to such appointments. Candidates are likely to be interviewed by a panel convened by DEFRA and the Countryside Agency.

6. What are the first steps in making a case for a conservation board?

A proposal to examine the conservation board option is most likely to be recommended by an AONB joint committee, separately by one or more of its constituent local authorities, or by the Countryside Agency. The legislation states that a majority of local authorities within an AONB must agree before a conservation board can be established. Wherever possible DEFRA would wish to see all the relevant local authorities agreeing, at least in principle, to a board before the Secretary of State initiates the preparation of an establishment order. It would be very difficult to establish a viable conservation board without the unanimous agreement of the affected local authorities.

If the Countryside Agency and the AONB partners are persuaded that a conservation board is a viable option, the Agency will consider supporting a more detailed study to determine what sort of board might be established. That study could identify an ideal size for the board, key aspects of its operation and what functions it might take over from, or operate concurrently with, its local authorities. The AONB partners will also be encouraged to consult local interests to ensure that the proposal has general support.

A recommendation may then be made to DEFRA. The Secretary of State will then formally consult all affected local authorities and the Countryside Agency. If she agrees a board is appropriate, a draft establishment order will be produced by DEFRA. The findings from any previous study (as referred to in the preceding paragraph) will inform the production of the establishment order, which will be put before both Houses of Parliament.

7. Which functions might be transferred from a local authority to a board or operated jointly?

Exactly what functions should transfer to a particular board or be run jointly by them and their local authorities will need to be agreed locally and specified in the establishment order. Decisions will need to be made about which functions might be effectively co-ordinated by the

board across its AONB. This gives flexibility to tailor a conservation board's functions to the particular circumstances and management needs of its AONB.

The flexibility of the establishment order process is set out in section 88(9) of the legislation which states that: the power of the Secretary of State to make an establishment order includes power to make different provision for different areas or localities, and for different boards.

Transferable functions might include aspects of management of the Rights of Way network within the AONB, or the operation of Countryside Management Services. The legislation specifically rules out the transfer of planning and development control functions. A board should also add value to or assist with the 'rural proofing' of other local authority functions which are not transferred. For example, it may assist with a rural traffic management element to a local transport plan to further the purposes of the AONB. It may be helpful for the board and the local authorities to devise simple written agreements to cover activities that they envisage will be handled jointly.

8. What obligations would the board have to produce a management plan?

A duty on all boards is to prepare, publish and keep under review management plans for their AONBs. That responsibility falls to local authorities where there is no board. The Countryside Agency has published guidance on the preparation of these plans. A board is required, within two years of its establishment, to prepare and publish an AONB management plan. Instead of preparing its own plan, a board may review and adopt an existing management plan and likewise publish it within two years. In either case the plan must be reviewed at intervals of not more than five years. Alternatively a board may, within six months of its establishment, simply adopt (without immediate review) and publish as their own, an AONB management plan previously prepared by a local authority or joint committee. However, the board must undertake a first review of an adopted plan within three years, rather than five. The legislation sets out the steps required of a management plan review process. Those steps are (i.) determining whether and how a plan should be amended; (ii.) making those amendments; and (iii.) publishing a report on the review process specifying any amendments made. Management plans prepared by conservation boards may be drawn upon by local authorities as prime sources of Supplementary Planning Guidance, so long as the requirements set out in Planning Policy Guidance Note 12 are met.

9. What about the consistency of AONB management plans with community strategies?

Under the Local Government Act 2000, local authorities have a duty to prepare community strategies which set out a long term vision for their area. A partnership approach, taking into account the views of local communities, will need to be adopted for the preparation of both community strategies and AONB management plans, and so there should be coherence and consistency between the two. In many areas Local Strategic Partnerships will be established to take forward community strategies and AONB partners will need to consider how best to link their work with the LSPs, perhaps in only a light touch way. Community strategies and the LSPs present conservation boards with opportunities to build AONB activity into broader agendas.

10. What about the roles of regional and national organisations?

The Act places a duty on all public bodies to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. It is intended that AONB purposes are recognised

as essential considerations in reaching decisions or taking actions which impact upon the designated area.

The membership of the board ought to reflect regional and national interest, including Government departments and relevant agencies. It will be important however for conservation boards/AONB partnerships to engage with these bodies over, for example, land management priorities, economic development and planning/transportation strategies. In some cases AONB boundaries take in more than one regional operating area.

11. How would the establishment order for the board be produced?

Each conservation board is set up by an establishment order drafted by DEFRA. An order should set out:

- the size and membership of the board;
- local authority functions to be transferred or operated jointly with local authorities;
- appointment, conduct and disqualification of members;
- proceedings, records, documents and provision of information by the board;
- appointment of staff ;
- consultation with other public bodies;
- property and legal liabilities.

The order can only be made after DEFRA has consulted the affected local authorities. It is important that the principle of forming a board has already secured the agreement of the majority of those authorities before the consultation takes place. The order must be approved by an affirmative resolution of both Houses of Parliament. This means that Parliament must positively endorse the order rather than simply not register any objections. An order may be amended or revoked by a subsequent order under the same part of the legislation. DEFRA is required to consult the relevant local authorities, the Countryside Agency and the conservation board concerned before producing such an order.

12. What role would conservation boards have in development control?

The legislation prevents planning and development control functions being transferred from local authorities to conservation boards. However, planning issues will be of vital interest to the boards and they should consider appointing planning officers to advise the board on planning issues. It is expected that planning guidance issued by the Government will be revised to allow conservation boards to be fully consulted when development plans are drawn up or revised, and to provide for boards to be able to comment on planning applications. In any event it may be helpful for a local protocol to be devised, setting out the process and sequence of dealing with planning policy making and decision taking and the respective roles of the Board and local authority partners.

13. How will conservation boards be funded?

Conservation boards will be funded jointly by local authorities and the Countryside Agency (at up to 75%) in the same way as for other AONBs. Additional assistance with one-off establishment costs will also be available. Conservation boards are primarily about making the management of some AONBs more stable, straightforward and efficient. They are not designed to give an AONB with a board a funding advantage over other AONBs, who will also be eligible for funding by the Countryside Agency. Funding for functions transferred from local authorities to conservation boards under the establishment order should be set out in the order

although the Secretary of State will be looking to those concerned to seek agreement and submit proposals to her.

14. Should a shadow board be established?

Whilst the Parliamentary process is underway and before an approved establishment order comes into effect, there may be merit in setting up a shadow board to establish the operational foundations. Ideally a shadow board should have local authority and parish representatives. Those individuals may be able to serve on the formal board once it is established. Whether they do continue or are replaced will be entirely a matter for those authorities in determining their representation. The shadow board can include non-local authority and non-parish representation but those representatives will not automatically serve on the formal board as Secretary of State appointees, although they may apply for those positions.

15. Where can I get further advice?

Department for Environment, Food and Rural Affairs (DEFRA)	Hugh Llewelyn, Countryside (Recreation and Landscape) Division 1, Zone 1/ 04, Temple Quay House, Temple Quay, Bristol BS1 6EB. Tel: 0117 372 8201
Local Government Association	Richard Brown LGA Adviser Assistant Director Environmental Management Hertfordshire County Council County Hall Pegs Lane Hertford SG13 8DN Tel: 01992 555250 Maria Reader Senior Project Officer LGA Local Government House Smith Square, London SW1P 3HZ Tel: 0207 664 3226
Countryside Agency	John Butterfield Finest Countryside Implementation Team Countryside Agency John Dower House Crescent Place Cheltenham GL50 3RA Tel 01242 533212

National Association of AONBs	Mike Taylor, Campaign Officer The Old Police Station, Cotswold Heritage Centre, Northleach, Gloucestershire GL54 3JH. Tel: 01789 764800

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