

CAIRNGORMS NATIONAL PARK AUTHORITY

Title: **MONITORING OFFICER, PROPER OFFICER AND ACCOUNTABLE OFFICER RESPONSIBILITIES**

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Purpose

To review and update arrangements for discharge of the responsibilities of Monitoring Officer, Proper Officer and for providing cover for the Accountable Officer of the Authority.

Recommendations

The Committee is asked to:

1. agree the appointment of the Chief Executive as the Monitoring Officer for the Authority;
2. agree the appointment of the Head of Corporate Services as the Proper Officer for the Authority.
3. agree that the Head of Corporate Services be given the authority to act on behalf of the Accountable Officer in the event of any temporary period of unavailability.

Executive Summary

The Authority approved interim arrangements for discharge of the responsibilities of Monitoring Officer and Proper Officer on 15 April 2003. The then interim Chief Executive was approved as both Acting Monitoring Officer and Acting Proper Officer until the Authority had determined the designation of these positions within its approved management structure and had made appropriate appointments to such positions. As the management structure for the Authority has been completed, it is now appropriate to review these interim arrangements and confirm permanent appointments. Proposals for appointment of Monitoring Officer, Proper Officer and for provision of cover for the Accountable Officer are put forward.

MONITORING OFFICER, PROPER OFFICER AND ACCOUNTABLE OFFICER RESPONSIBILITIES

Background

1. The Authority approved interim arrangements for discharge of the responsibilities of Monitoring Officer and Proper Officer on 15 April 2003. The then interim Chief Executive was approved as both Acting Monitoring Officer and Acting Proper Officer until the Authority had determined the designation of these positions within its approved management structure, and had made appropriate appointments to such positions.
2. The Chief Executive is also the designated Accountable Officer for the Authority, a situation which is confirmed in the Authority's Management Statement and which stems from sections 14 and 15 of the Public Finance and Accountability (Scotland) Act 2000. While the Accountable Officer is personally responsible for the discharge of the duties set out in the Management Statement, the Scottish Public Finance Manual sets out a requirement to ensure that there will be a senior officer of the authority who can act on behalf of the Accountable Officer in the event of any temporary period of unavailability.
3. As the management structure for the Authority has been completed, it is now appropriate to review these interim arrangements and confirm permanent appointments. Proposals for each of these three responsibilities are set out in the following sections

Monitoring Officer

4. Paragraph 15 of schedule 5 of the National Parks (Scotland) Act requires that the Park Authority designate one of its officers as the Monitoring Officer.
5. The Monitoring Officer is responsible for overseeing propriety and legality of the Authority's decisions and proceedings. The duty of the Monitoring Officer is to prepare a report if at any time he/she considers that any proposal, decision or omission by the Authority or by any committee or sub-committee, or by an officer of the Authority, give rise to (or is likely to give rise to) a contravention of the law or any code of practice approved under law, or any maladministration or injustice under the terms of the Local Government (Scotland) Act 1975. A copy of the report must be sent to each member of the Authority, who are then required to meet to consider the report within 21 days.
6. For local authorities, the Local Government and Housing Act 1989 precludes the Chief Finance Officer (Accountable Officer) from holding the designation of Monitoring Officer. However, that exclusion is removed in the case of National Park Authorities. It is therefore open to any officer to be designated. A great majority of the duties of the Monitoring Officer correspond to the responsibilities of the Chief Executive set out under the Authority's Management Statement and Financial Memorandum. The Chief Executive would therefore appear to be the appropriate

choice to take on this role on a permanent basis, given her oversight of all the Authority's business, taking legal advice as required. A senior legal adviser would be an alternative, but in relatively small organisations there may not be any such member of staff.

Recommendation

7. **That the Committee agree the appointment of the Chief Executive as the Monitoring Officer for the Authority.**

Proper Officer

8. Paragraph 12 in schedule 3 of the National Parks (Scotland) Act which provides for access to meetings and documents, to the National Park Authority. It requires the National Park Authority to appoint a member of its staff as its Proper Officer for the purposes of Part IIIA of the Local Government Scotland Act 1973. Part IIIA of the Act requires:
 - meetings of the Authority to be open to the public, but provides for exclusion of the public in certain circumstances (essentially for confidentiality);
 - public notice of the time and place of the meeting to be posted at the Authority's offices 3 clear days before the meeting;
 - where meetings are open to the public, newspaper representatives to be given reasonable facilities as far as possible (but this does not extend to telecommunications facilities if the building does not belong to the Authority);
 - agendas and papers to be open to inspection by the public 3 days in advance of the meeting (but the Proper Officer may conclude that reports to be taken in closed session should not be open to inspection);
 - in cases of urgency, however, the Chairman of the meeting can take the view that an item is to be taken at the meeting despite not being on the agenda;
 - the above rules also apply to meetings of National Park Authority committees or joint committees with other authorities; and,
 - the National Park Authority must keep a register of its members, and the members of its committees and sub-committees.
9. The Monitoring Officer takes responsibility for ensuring these provisions are put into practice, and advises on the issues that arise (such as exclusion of papers from public inspection, for example, if it is decided that this relates to an item to be taken in private session).
10. The Chief Executive has filled this role over the past months. However, it was intended in the establishment of the Management Team that these responsibilities would transfer from the Chief executive to the Corporate Services Group. It is therefore proposed that responsibility for undertaking the role of Proper Officer is now transferred from the Chief Executive to the Head of Corporate Services, following that member of the management team taking up his post in October.

Recommendation

11. **That the Committee agree the appointment of the Head of Corporate Services as the Proper Officer for the Authority.**

Cover for Accountable Officer

12. The Scottish Public Finance Manual requires the Accountable Officer to ensure that there will be a senior officer of the authority who can act on behalf of the Accountable Officer in the event of any temporary period of unavailability. In light of the appointment of a qualified accountant as Head of Corporate Services with responsibility for the Authority's financial management, it would seem appropriate that this responsibility is also vested in the post of Head of Corporate Services.

Recommendation

13. **That the Committee agree that the Head of Corporate Services be given the authority to act on behalf of the Accountable Officer in the event of any temporary period of unavailability.**

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