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## CAIRNGORMS NATIONAL PARK AUTHORITY AUDIT & RISK COMMITTEE

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### DISCUSSION PAPER

**Title: GOVERNANCE RESPONSIBILITY STATEMENT**

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#### **Purpose of Paper**

1. Board, senior officers and internal audit have all identified a requirement to set out a statement of the respective responsibilities for Executive Managers and Non-Executive Members in decision-making within Cairngorms NPA in order to establish a clear understanding of this element of the Authority's governance. This paper sets out some initial ideas for discussion on development of a Governance Responsibility Statement for the Cairngorms National Park which aims to support development of clarity and understanding of decision-making responsibilities within the Cairngorms NPA.

#### **Objectives of Work**

2. The Chartered Institute of Public Finance and Accountancy (CIPFA) defines governance as "the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved"<sup>1</sup>. The work around developing a Governance Responsibility Statement seeks to identify those who have a role to play in development and delivery of good governance within the Cairngorms NPA and establish a clarity around the respective decision making responsibilities of those involved in governance.
3. As a Non-Departmental Public Body (NDPB) the Cairngorms NPA has over-arching governance arrangements unique to our sector and with significant variations from commercial, local authority and other public sector governance. The Framework Agreement between the Authority and Scottish Government is the key document in establishing the governance of the organisation. Crucially in considering decision making responsibilities within the Authority, the Framework Agreement confirms a duality of accountability and responsibility for the decisions made by the organisation between the Convener, on behalf of the Non-Executive Board and its members, and the Chief Executive on behalf of the Executive Management Team.

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<sup>1</sup> International Framework: Good Governance in the Public Sector; CIPFA; 2014

4. The governance of the Authority is a partnership and team effort, in which the work and leadership of Non-Executive Board members is complemented by the work and leadership of the Executive Management and wider staff group. The objectives of establishing a Governance Responsibility Statement is to establish as much clarity as possible around the responsibilities of those involved in governance and decision making in order to provide effective governance of the Authority.
5. The nature of the Cairngorms NPA's governance arrangements is such that it is impossible to eliminate the need for judgement in establishing the correct level of decision making in a number of aspects of our work. As such, it is not possible to set out pre-specified lines of delegated authority in all instances. This work on developing a Governance Responsibility Statement therefore also helps establish those aspects of decision making where some judgement remains as to appropriate decision making processes.
6. Through clarifying specific areas of Non-Executive and Executive decision making responsibility and establishing that judgement and overlap of responsibility will continue to some degree, this document aims to help establish a solid foundation for the governance of the Authority through clarity of understanding and mutual respect for relevant roles and responsibilities involved.
7. Overall, the aim of the work supported by this document is establishing governance arrangements appropriate to an NDPB which:
  - a) Support an effective executive / non-executive working relationship and partnership;
  - b) Provide clarity and understanding of respective responsibilities of key governance roles notably Convener, Chief Executive Officer, Deputy Convener, [Deputy Chief Executive], Board Members and members of the Senior Management Team (SMT) particularly where those members of the SMT have specific, delegated decision making responsibilities;
  - c) Establish a clear an understanding over the decision making responsibilities of those parties involved in governance.
  - d) Recognise areas of overlap between governance roles; identify aspects of ongoing judgement which will be required in exercise of responsibility; and thus help develop and maintain collaborative, respectful team working underpinned by clearer understanding of roles, responsibilities and judgements;
  - e) Help embed mutual respect and understanding between all involved in aspects of strategic and organisational management;
  - f) Complement, support and embed the operation of other key governance policies and procedures (see section on key references) and notably the implementation of the [Framework Agreement], Code of Conduct, Scottish Public Finance Manual (SPFM), Business Continuity Plan and effective operation of Board and its Committee within their agreed remits.
  - g) Promote, support and embed organisational values throughout all aspects of the Cairngorms NPA's work through leadership from the most senior individuals responsible for governance.
8. The Audit and Risk Committee is invited at this time to consider the appropriateness of the above aims for this element of the work on governance and establishing a

Governance Responsibility Statement for the Cairngorms NPA as set out in the following document.

9. The development of the draft Governance Responsibility Statement is a work in progress. This early draft is brought to the Committee at this point as a check on the direction of travel and to test with the members of the Committee whether the continued development of a document along the lines set out in the following section of this paper is likely to adequately cover the needs of the Cairngorms NPA in addressing the need for greater clarity around governance roles and their decision making responsibilities.

## **A Governance Responsibility Statement**

10. The label of Governance Responsibility has been adopted for use in this discussion paper, as the CNPA is an NDPA with differing arrangements to other areas of the public sector.

## **Governance Responsibilities**

11. The [Framework Agreement] is a key document setting out the governance responsibilities of key individuals, roles and groups within the Authority. Brief extracts of that document are set out here to give context of the key responsibilities of those with governance responsibilities which have a significant bearing on decision making responsibilities. The full narrative on responsibilities may be referred to within the [Framework Agreement] and supporting documentation such as the Code of Conduct and On Board guidance.

### ***Scottish Ministers***

12. The Scottish Ministers are ultimately accountable to the Scottish Parliament for the activities of the NDPB and its use of resources.

### ***The Cairngorms NPA Board***

13. The role of the board is to provide leadership, direction, support and guidance to ensure the Authority delivers and is committed to delivering its functions effectively and efficiently and in accordance with the aims, policies and priorities of the Scottish Ministers. Key elements of these responsibilities of relevance to the development of this Governance Responsibility Statement are:
  - a) Taking forward the strategic aims and objectives for the body agreed by the Scottish Ministers;
  - b) Determining the steps needed to deal with changes which are likely to impact on the strategic aims and objectives of the NDPB or on the attainability of its operational targets;
  - c) Promoting the efficient, economic and effective use of staff and other resources by the NDPB consistent with the principles of Best Value;
  - d) Ensuring that effective arrangements are in place to provide assurance on risk management (including in respect of personnel, physical and cyber risks/threats/hazards), governance and internal control; AND

- e) Ensuring that the board receives and reviews regular financial information concerning the management and performance of the NDPB and is informed in a timely manner about any concerns regarding the activities of the NDPB.
14. The board must set up an audit committee chaired by a non-executive member to provide independent advice and assurance on the effectiveness of the internal control and risk management systems

### ***The Convener***

15. The Convener is accountable to the Scottish Ministers and, in common with any individual with responsibility for devolved functions, may also be held to account by the Scottish Parliament. Communications between the NDPB board and the Scottish Ministers should normally be through the Convener.
16. The Convener is responsible for ensuring that the NDPB's policies and actions support the Scottish Ministers' wider strategic policies and that its affairs are conducted with probity.
17. The Convener/Depute Convener have a particular leadership responsibility on the following matters:
- a) Formulating the Board's strategy;
  - b) Ensuring that the Board, in reaching decisions, takes proper account of guidance provided by the Scottish Ministers;
  - c) Promoting the efficient and effective use of staff and other resources;
  - d) Encouraging high standards of propriety and regularity; AND
  - e) Representing the views of the Board to the general public.

### ***Non-Executive Board Members***

18. Individual board members should act in accordance with the responsibilities of the board as a whole and comply at all times with the code of conduct adopted by the NDPB and with the rules relating to the use of public funds and to conflicts of interest. In this context "public funds" means not only any funds provided to the NDPB by the Scottish Ministers but also any other funds falling within the stewardship of the NDPB, including trading and investment income, gifts, bequests and donations.

### ***Chief Executive and Accountable Officer and their Executive Team***

19. The Chief Executive Officer and Accountable Officer (CEO) is the board's principal adviser on the discharge of its functions and is accountable to the board. The CEO's role is to provide operational leadership to the NDPB and ensure that the board's aims and objectives are met and the NDPB's functions are delivered and targets met through effective and properly controlled executive action. The CEO's general responsibilities include the performance, management and staffing of the NDPB.
20. These responsibilities will typically be supported by a delegation of authority to a wider executive management team, which for Cairngorms NPA is the team of Directors supported by Heads of Service.

## Governance Responsibility and Exercise of Judgement

21. While the Governance Responsibility Statement seeks to establish as much clarity as possible around determining the respective responsibilities of those involved in governance, there are some areas where it is not possible to draw up absolute lines of responsibility and which have some areas of overlap. Judgement and sensitivity to others' involvement and responsibilities will always be required in most areas of the Cairngorms NPA's work and the governance of it. The Governance Responsibility Statement is therefore developed to clarify points of subjectivity and the requirement for judgement and decision making. It does not seek to remove the need for judgement and decision making on areas of potential overlap of responsibility.
22. One means of establishing greater clarity around areas of judgement on where governance and management responsibility lies on issues, and helping to clarify the respective roles and responsibilities of Executive and Non-Executive is to establish challenge questions or criteria for assessment. For example, the following challenge questions / key principles may be used to assess when judging where decision making falls.
  - a) Is a decision establishing or amending a long-term objective, outcome or performance measure of the organisation?
  - b) Is a decision unique or novel?
  - c) Does a decision have the potential to significantly and adversely impact on the reputation of the Cairngorms NPA?
  - d) Does an action have the potential to create a significant and / or a long-term liability for the organisation (long-term being having financial impacts beyond the existing Corporate Plan period)?
  - e) Does a decision or action have the potential to create a new strategic risk for the organisation or to escalate the significance of an existing strategic risk?
  - f) Does a decision or action impact on the overarching governance of the organisation?
23. Where these questions are answered "yes", the implication is that such decisions are matters of strategic policy and governance and resolution should therefore err toward a matter for Board determination through appropriate routes.
24. Equally, in discussions over aspects of scrutiny and decision making, there is judgement to be exercised in determining whether the aspect of decision making is a Non-Executive or Executive function:
  - a) Is the decision around what is to be achieved or how an outcome is to be delivered?
  - b) Is the decision about whether a project is delivering against a strategic outcome or how the project is being managed / designed / delivered?
25. Where these questions are answered on the basis of scrutiny or assurance over outcomes or final achievements, there is an appropriate area of Board scrutiny and assurance. Where questions are about how things are being done; how projects or activities are being designed, managed or implemented, then these matters are straying more into executive management responsibilities.

## Non-Executive Assurance

26. In addition to decision making responsibilities on aspects related to governance and strategy, Non-Executive Board members also have a role to seek assurance over certain key elements of the Authority's operations. There is a key distinction here from decision making responsibilities. As outlined in 25, the role is one of ensuring there is appropriate reporting and evidence available to allow board members to take confidence that strategic objectives are being met. Where there are issues, Board Members should also have assurance that these have been escalated to strategic Board levels, with appropriate resolution
27. The key areas of assurance work for board members are:
  - a) Promoting the efficient, economic and effective use of staff and other resources by the NDPB consistent with the principles of Best Value;
  - b) Performance in attainment of agreed corporate plan strategic outcomes;
  - c) Performance in attainment of agreed key performance measures;
  - d) Mitigation of agreed strategic risks; and
  - e) Design and deployment of appropriate and effective internal controls.
28. As set out in this document, allocation of responsibility for action in areas of governance within an NDPB cannot always be assigned solely to the board or the Executive. There is an essential requirement for an effective team dynamic between those charged with governance responsibilities in delivering an effective and performing system of governance. An illustration of this situation over the key aspects of governance within CNPA is set out in the following "Map of Governance Responsibility".

## Mapping Governance Responsibility

<b>Activity</b>	<b>Board Responsibility</b>	<b>Executive Responsibility</b>	<b>Links / References</b>
Corporate Strategy e.g. NPPP and Corporate Plan – setting the strategy	Determine strategy; determine strategic objectives; determine performance measures / measures of success; determine any specific key milestones / indicators of success; determine all variations to these aspects. Ensure strategy is underpinning appropriate national strategies put in place by Scottish Government.	Support member training sessions around key subject areas; Support informal discussion sessions around subject areas to assist in developing a collective sense of strategic direction; Draft strategic policy documents for review and determination by Board.	Appointment letters Framework Agreement
Corporate Strategy – delivering outcomes	Scrutinise delivery updates; Review performance against performance indicators and milestones; Assurance over delivery of agreed strategic outcomes.	Determine how to deploy available resources to achieve agreed outcomes and performance measures; Tactical decisions on how to achieve agreed outcomes, including design, implementation and delivery of programmes of work and specific projects / activities.	Framework Agreement
Corporate Strategy – risk management	Determine risk management strategy and policy; Decide and agree risk appetite; Determine strategic risks and mitigation; Assurance on risk management and mitigation: review reports and “deep dives” on risk areas and risk management.	Advise on development of strategy and policy, drafting for review and approval; Advise on risk appetite, strategic risks and mitigation approaches; Determine how to implement mitigation actions and decide on deploying resources to best achieve mitigation aims.	Framework Agreement SPFM
Strategic Policy	Determine Policy and targeted policy	Advise on policy development including	<i>Corporate Strategy –</i>

<b>Activity</b>	<b>Board Responsibility</b>	<b>Executive Responsibility</b>	<b>Links / References</b>
Development	outcomes.	supporting developmental discussions and training events where required in lead up to policy development. Draft policy proposals in line with the strategic direction agreed by the Board for review, comment and determination. Determine resource deployment to realise targeted policy outcomes.	<i>delivering outcomes</i>
	Determine procedural requirements to achieve policy outcomes. <sup>2</sup>		
Budgeting and Resource Deployment – Annual Budget Setting	Determine priorities for resource allocations to achieve agreed strategic policies and outcomes on basis of advice from senior management team; Establish annual budget allocations which are commensurate with achievement of established strategic objectives.	Develop budget proposals recognising available income and expenditure pressures and which show the proposed deployment of resources to achieve agreed strategic objectives. Inform budget proposals through operational and tactical knowledge and understanding of commitments and ongoing delivery programmes established	Framework Agreement  <i>Corporate Strategy – delivering outcomes</i>
Budgeting and Resource Deployment – committing	Assurance that resource deployment continues to achieve agreed long term	Determine and approve all expenditure within budgets agreed by Board;	<i>Corporate Strategy – delivering outcomes</i>

<sup>2</sup> Recent examples of overlap in responsibility for determining procedural requirements to achieve policy outcomes and need to use the decision criteria set out in the Governance Responsibility Statement:

- i) Board agreement of Green Recovery Fund criteria sought as a consequence of novel aspect of policy, potential for impact on reputation, potential for wider risk management;
- ii) Seasonal Ranger Service: implementation entirely at Executive Level once overall allocation of resources agreed reflecting minimal assessed impact on reputation, lack of strategic risks or long term liability. Ongoing Board assurance from activity reporting and reporting on success measures.

<b>Activity</b>	<b>Board Responsibility</b>	<b>Executive Responsibility</b>	<b>Links / References</b>
resources	strategic objectives.	Manage all staff recruitment, management, objective setting, performance appraisal.	
	Approve project initiation		
Budgeting and Resource Deployment – final accounts	Board arrangements for approval of accounts while it remains the Accountable Officers personal responsibility to sign the accounts and who is ultimately personally responsible to the Scottish Parliament for the stewardship and management of the organisations finances.		Framework Agreement; Letters of appointment
Board and Sub Committee Management	<p>Agree agendas in advance of meetings.</p> <p>Review draft papers in terms of clarity of presentation and coverage of agreed agenda items prior to issue.</p> <p>Review papers in advance of meetings and seek any detailed additional information requirements in advance of meeting.</p> <p>Consider papers and presentations on their merits.</p> <p>Interact with staff in accordance with expected values and behaviours.</p>	<p>Coordinate appropriate matters of business and provide advice on agenda / items of business.</p> <p>Manage drafting and finalisation of all papers.</p> <p>Ensure responses are made to any detailed questions prior to meetings.</p> <p>Transparent, clear, open information provision to all members.</p> <p>Interact with members in accordance with expected values and behaviours.</p>	<p>Code of Conduct On Board Guidance [Staff Code]</p> <p>Committee Terms of Reference</p>