

# Title: Board of NatureScot – Standing Orders Review

**Date: 14 May 2024**

| **Purpose:** | **Decision** |
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| **How does this link with our corporate priorities of improving biodiversity or delivering nature-based solutions to climate change:** | The remit of the Board is to decide the strategic direction of our organisation, in line with the policy, planning and resources framework set by Scottish Ministers, in support of improving biodiversity and delivering nature-based solutions to climate change. The Board’s Standing Orders directly support this. |
| **Summary:** | There is a requirement for the Board to review its Standing Orders (SOs) every 2 years. No amendments have been made as part of this review, which has received input from the Chair. |
| **Actions:**  | Board members are asked to review the document and highlight any queries. |
| **Recommendations:**  | Board members are asked to agree the revised ‘Board of NatureScot Standing Orders’. |
| **Report Author(s):** | Sara Lewis – Governance Support Manager |
| **Sponsor:**  | Graham Boyle – Chief of Staff |
| **Appendices**:  | Appendix 1 – Standing Orders for the Board of NatureScot. |

## Appendix 1

**Standing Orders for formal meetings of the Board of NatureScot**

**(applies also to Committees unless stated otherwise in Committee Terms of Reference)**

**Background**

1. NatureScot is the operating name of Scottish Natural Heritage (SNH) formally adopted on 24 August 2020. The organisation was established in 1992 by the Natural Heritage (Scotland) Act 1991 to secure the conservation and enhancement of, and to foster understanding and facilitate the enjoyment of, the natural heritage of Scotland, in a manner that is sustainable.
2. Under Schedule 1 of the 1991 Act, SNH was given the power to regulate its own procedures. This paper sets out the detailed procedures that apply to the conduct of meetings of the Board of NatureScot. The procedures also apply to meetings of the Committees of the Board as appropriate unless a Committee adopts its own standing orders, in which case they must be endorsed by the Board.
3. These Standing Orders are in addition to the requirements as set out in the Natural Heritage (Scotland) Act 1991 and the provisions set out in the following documents:
* Code of Conduct for Board Members of NatureScot (2022)
* The Ethical Standards in Public Life etc. (Scotland) Act (2000)
* Environmental Information (Scotland) Regulations (2004)
* The Freedom of Information (Scotland) Act (2002)
* The Data Protection Act (2018)

**Board Membership**

1. Members of the Board of NatureScot are appointed by the Responsible Minister, and the Board will consist of not less than 8 and not more than 12 persons. One of the members is appointed by the Responsible Minister to be the Chair and another as Deputy Chair (following consultation with the Chair). With agreement between the Responsible Minister and the Chair, the Deputy Chair role may be shared between two members. All Board members are appointed on an individual basis and not as representatives of organisations. Duration of appointments is as set out in a member’s letter of appointment.

**Quorum**

1. The quorum of the Board of NatureScot is a majority of currently appointed members of the Board, including the person chairing the meeting. No decisions will be made at a meeting of the Board unless a quorum is present. All attendances and absences will be recorded in the minutes of any meeting.
2. Participation will be in person by telephone or video-conference. In all such circumstances members will be deemed to be present and to constitute part of the Board for the purpose of that meeting.
3. Members of Committees who are not members of the Board of NatureScot may, at the discretion of the Chair, be invited to attend part or all of Board meetings or to make presentations to the Board. They will not however be entitled to vote.

**Delegation**

1. The Board of NatureScot may delegate powers to Committees, other groups or individuals as it considers necessary. The Board shall decide the remit, Chair arrangements and membership, level of delegated authority, and any other rules which accompany the delegation. Unless otherwise directed, Committees, other groups and individuals will report direct to the Chair.

**Schedule of Meetings**

1. The Board of NatureScot will approve in advance of each calendar year, dates and venues for its meetings for the following year. The agenda and papers will be issued to Board members at least 6 days in advance of each meeting (unless a later circulation is considered preferential by the Chair for one or all of the papers).
2. The Chair may convene a special meeting of the Board when it appears that an item of business requires urgent consideration. In the absence of the Chair, the Deputy Chair(s) may convene a special meeting. Any Member may request that a special meeting be convened. The final decision on whether this proceeds rests with the Chair or, in their absence, the Deputy Chair(s), who will also determine which members of staff should attend and whether or not the special meeting should be open to the public.

**Board Agenda and Papers**

1. The agenda for each Board meeting is posted on the website once approved by the Chair. Board paper will also be posted on the website, other than those marked “Official Sensitive”. Agenda items may change prior to the meeting, with any changes reflected on the website agenda.
2. Each Board paper is sponsored by a member of the Senior Leadership Team, except Board Standing Orders which are sponsored by the Chair.
3. Board meetings are normally open in entirety to the public (“open session”). However, there may be items which are “official sensitive” and, for these, there will be no public attendance (“closed session”)
4. The Chief Executive and members of the Senior Leadership Team normally attend the entirety of Board meetings. However, Board members can request any item to be discussed in “private session”. Attendance in private session will be Board members only and the Chief Executive by invitation of the Chair.
5. Notice of planned attendance by the public to open session items must be provided 24 hours prior to any Board meeting by e-mailing Executive\_Office@nature.scot. Members of the public cannot participate in discussions or decisions of the Board during the meeting (but see 'Representations from the Public' below).
6. The formal record of the Board of NatureScot meeting, excluding any items discussed in closed session, or private session minutes, will be published on the NatureScot website following clearance of the Board minute at the following Board meeting.

**Board Papers dealt with in Closed Session**

1. The Freedom of Information (Scotland) Act 2002 is used, along with the Environmental Information Regulations 1994 and the Data Protection Act 2018, to guide which papers should be dealt with in closed session. Such papers will be marked Official Sensitive and include, but not limited to:
* Papers relating to NatureScot’s policy advice to Government or to the Scottish Parliament (including Parliamentary Committees), where this is subject to further discussion with the Executive or has been asked for in confidence.
* Papers containing information, which is the subject of legal proceedings, for example judicial review.
* Papers relating to appointments to the Committees where these refer to individuals.
* Papers that contain information, which if publicly released would increase the likelihood of damage to the environment.
* Papers which include ‘commercial in confidence’ information not already in the public domain.
* Papers where confidentiality is required to protect the organisation’s negotiating position on a strategy issue or casework.
* Papers which include information provided to NatureScot by a third party on a confidential basis, or personal information on an individual who has not given consent for disclosure.
* Papers relating to personnel and staffing issues which are of a confidential or personal nature.
1. Papers discussed in the Closed Session will not be issued to the public or press, and will not be made available on request. The reasons for papers being dealt with in this way are included in the cover page of the appropriate paper.

**Representations from the Public**

1. Members of the public can ask for further information in advance of the meeting through contacting Executive Office. They can also make representations to the Board of NatureScot, or bring information to the attention of the Board, regarding items on the Board agenda. This must be done in writing prior to the date of the Board meeting by contacting Executive\_Office@nature.scot. Letters and/or other documents will be circulated to Board members in advance of the meeting, provided that these are received by no later than 24 hours prior to the start of the meeting. Where this is not possible, these will be tabled at the meeting. Where appropriate, staff will briefly summarise the views and information received when introducing the agenda item during the meeting. Meetings of the Scientific Advisory Committee, Audit and Risk Committee and Protected Areas Committee are also open to the public.
2. Arrangements for members of the public attending Board meetings is set out in guidance published on the NatureScot website.

**Staff Attendance at Meetings**

1. The Chief Executive shall have the right to attend all Board meetings and meetings of the Committees, except for parts of meetings when agreed by Board members that the matter under discussion should involve members only, for example where the Chief Executive's remuneration or performance is being discussed.
2. In addition to the Chief Executive, Directors, Deputy Directors, Chief-of-Staff and the Governance Support Manager will, except when requested or excused by the Chair, attend meetings of the Board of NatureScot. Other members of staff will attend for particular agenda items as necessary.

**Board Questions**

1. Any member may put a question to the Chair at any meeting of the Board concerning any relevant and competent business arising from the agenda.
2. Members can also notify the Chair in advance of the meeting of questions that they wish to raise other than those relevant to agenda items. Wherever possible this should be done in writing. The Chair, in consultation with the Chief Executive, will determine whether the question should be dealt with during the meeting, and inform the member accordingly. Wherever possible, questions will be dealt with in the Open Session. Exceptionally, where a question deals with a sensitive or confidential issue, it may be dealt with in Closed Session. This will be at the discretion of the Chair in consultation with the Chief Executive.
3. When a question of order is raised at a meeting of the Board of NatureScot, the Chair’s ruling on it will be final.

**Chairing of meetings**

1. At a meeting of the Board, the Chair of the Board of NatureScot, if present, will preside. In the absence of the Chair, the Deputy Chair(s) will preside. If neither is able to be present, the Chair will normally indicate which other member should preside. If no advice from the Chair is available, the Board members present will choose, by a majority vote of those present, one of their number to preside.
2. The Chair will:
* Preserve order and ensure that members of the Board have sufficient opportunity to express their views on any matter under discussion;
* Determine all matters of order, competency and relevancy;
* Determine in which order members wishing to speak should do so; and
* Determine whether or not a vote is required and how it is to be conducted.

**Board Decisions**

1. Decisions of the Board of NatureScot will usually be by consensus of attending members. An attending member is one who is either present in person or takes part by telephone or video conference link throughout the discussion of the agenda item and has heard any summing up by the Chair, or a nominated member of SLT. A member who leaves a meeting prematurely will be treated as a non-attending member for the purpose of any decision taken after the time of departure.
2. A member of the Board may have his or her dissent recorded to a decision of the Board provided that she/he has attended the meeting at which the matter was considered and provided that the member asks to record his/her dissent immediately after the decision is concluded. Any member that wants to actually propose an adjustment to the Chair or member(s) motion prior to a decision being taken should 1) seek a seconder for that formal amendment and if that is secured 2) thereafter secure a majority vote of Board members.
3. Written comments on agenda items submitted by any non-attending Board members will be circulated to Board members and referred to by the Chair (or designated support such as the Governance Support Manager ) at the appropriate point in the meeting.
4. Exceptionally, when a Board decision is required urgently and it would not be feasible to convene a meeting, the matter will be dealt with by correspondence. The decision to do this will be made by the Chair or Deputy Chair(s). In such circumstances members will send their views to the Chair in writing. The decision will be ratified at the next Board meeting and recorded in the minutes.

**Voting**

1. While most decisions are by consensus, a vote may be taken in the following circumstances:
* When the Chair detects that there is a body of opinion among the members who either disagree with a proposal or have expressed reservations about it and no clear consensus has emerged.
* When a member requests a vote to be taken and this is supported by at least one other member in attendance.
* Any other circumstance where, at the Chair’s discretion, it is felt that a decision should be preceded by a vote.
1. Only attending members, as defined in Board decisions, will be eligible to vote. Each member, including the Chair, will be entitled to one vote except in the case of an equality of votes when the Chair will have an additional casting vote.
2. Votes will normally be taken by show of hands. At the discretion of the Chair, or in the event of any member objecting to a vote being taken by a show of hands and a majority of attending members supporting the objection, the vote will be taken by secret ballot. In the circumstances where a secret ballot is to be held, the Chief of Staff will issue and collect ballot papers, count the votes and after these have been confirmed by the Chief Executive, or in their absence another attending member of SLT, announce the result to the Board.
3. The minutes of the meeting will record the results of voting, noting the number and names of members voting for and against the proposal and any abstentions. The minutes will not record the names in the event that a ballot is held in secret.

**Deferred Decisions**

1. The Board may decide to defer a decision on an agenda item so that it can be provided with more information, additional decision options or for any other reason. The decision to defer, with the reasons, will be recorded in the minutes of the meeting along with the indicative timescale for returning the matter to the Board for further discussion and decision.

**Advice to the Board**

1. In reaching decisions at meetings, the Board will take advice as appropriate. This will generally be from the Chief Executive or such other serving member of SLT or staff present. The Chief Executive in their capacity as the organisation’s Accountable Officer has a specific role in advising the Board on matters of propriety, economy, effectiveness and/or efficiency. The Board may also seek advice from its Committees, or any other internal or external source as it regards necessary.
2. In circumstances where advice from the Chief Executive is overruled by the Board, or in their formal capacity as Accountable Officer, where the Chief Executive feels that the action contemplated could not be defended before the Scottish Government and/or Scottish Parliament, the Chief Executive may require the Chair to give him/her a written instruction on the matter. Such an instruction will be drawn to the attention of the Auditor General for Scotland and the Departmental Accountable Officer in the Scottish Government.

**Declarations of Interest - Making a Declaration**

1. Individual members must consider at the earliest stage possible whether they have an interest to declare in relation to any matter that is to be considered. They should consider whether agendas for meetings raise any issue of declaration of interest, and if in doubt may consult with Executive Office, or with the Standards Commission. A declaration of interest must be made as soon as practicable at a meeting where that interest arises. If the need for a declaration of interest is identified only when a particular matter is being discussed the member must declare the interest as soon as they realise it is necessary to do so.
2. The declaration of interest must be sufficiently informative to enable those at the meeting to understand the nature of the interest but need not give a detailed description of the interest.

**Effect of Declaration**

1. Declaring a financial interest has the effect of prohibiting any participation in discussion and voting. A declaration of a non-financial interest involves a further exercise of judgement by the member concerned. They must consider the relationship between the interests that have been declared and the particular matter to be considered and relevant individual circumstances surrounding the particular matter.
2. In the final analysis the conclusive test is whether, in the particular circumstances of the item of business, and knowing all the relevant facts, a member of the public acting reasonably would consider that the member might be influenced, or influence others by the interest in their role as a member of NatureScot and that it would therefore be wrong to take part in any discussion or decision-making. If a member, in conscience, believes that their continued presence would not fall foul of this test, then declaring a non-financial interest need not preclude their involvement in discussion or voting. If they are not confident about the application of this objective yardstick, they must play no part in the discussion and must leave the meeting room until discussion of the particular item is concluded.

**Dispensations**

1. In very limited circumstances dispensations can be granted by the Standards Commission in relation to the existence of financial and non-financial interests which would otherwise prohibit a member from taking part and voting on matters coming before NatureScot and its Committees. Applications for dispensations will be considered by the Standards Commission and should be made as soon as possible in order to allow proper consideration of the application in advance of meetings where dispensation is sought. A member should not take part in the consideration of the matter in question until the application has been granted.

**Board Minutes**

1. Minutes of all meetings will be taken by Executive Office, the exception will be Private Sessions that will be minuted separately by an appropriate individual determined by the Chair. Taken in conjunction with the papers presented to the meeting, the minutes should provide a correct record of the meeting, in sufficient detail to comprise an audit trail of issues discussed and decisions taken by the Board.
2. Draft minutes will circulated as ‘Unconfirmed Minutes’ to members prior to and be formally 'Confirmed' at the next meeting of the Board after the meeting to which they refer, verified by the Chair, and minuted as a correct record. Minutes for the Open Session will then be placed on the NatureScot website.

**Suspension of Members**

1. In the event of any member of the Board of NatureScot disregarding the order or authority of the Chair at any meeting, or being guilty of obstructive or offensive conduct at any meeting, and the Chair calling the attention of the meeting to the same, the Board, may on the motion of any member, duly seconded and supported by the vote of a majority of the members present and voting, suspend such member so offending for the remainder of the sitting. No debate shall be allowed on such a motion.

**Confidentiality**

1. Members may use their discretion in discussing items of Board business with other parties following the meeting.
2. For issues dealt with in Closed or Private Session, the nature and content of the business must not be divulged to, or discussed with, anyone other than fellow Board members and staff in attendance until the Chair states otherwise.
3. Members should get the prior approval of the Chair, or in their absence, the Deputy Chair, before making public statements (including statements to the Press and broadcast interviews) on behalf of the Board.

**Personal liability of Board Members**

1. While any legal proceedings initiated by a third party are most likely to be brought against the Board as a whole, in exceptional cases proceedings may be brought against the Chair or other individual Board members. For example, a Board member may be personally liable if he or she makes a fraudulent or negligent statement that results in loss to a third party.
2. However, in accordance with the standard indemnity recommended for NDPB members by the Government, a Board member who has acted honestly and in good faith will not have to meet out of his or her own personal resources any personal civil liability which is incurred in the execution or purported execution of his or her Board function, save where the member has acted recklessly.

**Suspension and amendments of Standing Orders**

1. These Standing Orders may be varied, revoked or added to by only the Board itself and any such alterations will require the consent of the majority of members present at a meeting.
2. Notwithstanding this provision, no Standing Order may be suspended or amended where this would contravene the Code of Conduct, or any statutory provision or direction made by Scottish Ministers.