

## CAIRNGORMS LOCAL OUTDOOR ACCESS FORUM

### MINUTES OF THE NINTH MEETING Glenmore Visitor Centre, Glenmore

Tuesday 5 September 2006

#### Present

Dick Balharry (Convenor)	Helen Geddes
Simon Blackett	Peter Ord
Nic Bullivant	Roger Searle
Jo Durno	Richard Wallace
Fred Gordon	Andrew Wells (Vice-Convenor)
Debbie Greene	Jamie Williamson
Dave Horrocks	Tim Walker
Bryan Wright	Mike Atherton

#### Apologies

John Grierson  
Jack Hunt  
David MacKay  
Ken MacMillan  
David Selfridge

#### In attendance

Murray Ferguson, CNPA  
Bob Grant, CNPA  
Sandra Middleton, CNPA  
Adam Streeter Smith, CNPA  
Cath Clark, PFAP  
Sue Hilder, NFUS  
Janice Gray, SRPBA

#### Summary of Action Points

- AP1: Local Outdoor Access Forum (LOAF) members to receive a copy of September's SE monitoring return once complete.**
- AP2: BG/MF to seek further advice on the matter of any additional duty of care when advice or "permission" had been sought from the land manager.**
- AP3: MF to report back on the Ranger negotiations at the next meeting**
- AP4: All to consider if they would like to attend as one place is still available and to liaise with Richard about travel details etc.**
- AP5: Forum members were encouraged to attend local meetings and feed back views on the questionnaire**
- AP6: Forum members are asked to submit comments on the OAS by Monday 11 September**
- AP7: Forum members who wish to edit their pen portrait should contact Sandra as soon as possible**
- AP8: All to consider paper and report back in the next 2 weeks.**

## **Welcome and Introductions**

1. Dick Balharry (DB) opened the meeting and introduced Tim Walker as a new member of the Forum representing SportScotland and Cath Clark as the new contact from Paths for All Partnership (PFAP). Thanks were recorded to Dave Horrocks for organising the afternoon canoeing trip. Dick then introduced both Sue Hilder and Janice Gray as speakers.

## **Minutes of the last meeting**

2. Minutes of the eighth meeting on 13<sup>th</sup> June were approved.

## **Matters Arising**

3. The Convenor noted that all actions had been discharged with the exception of Action Point AP6 which was to be presented at the next meeting that coincides with the Scottish Executive monitoring return date.

**AP1: Local Outdoor Access Forum (LOAF) members to receive a copy of September's SE monitoring return once complete.**

## **Land Managers representative bodies – a presentation from the Access Officers**

4. Janice Gray from the Scottish Rural Property and Business Association (SRPBA) and Sue Hilder from the National Farmers Union Scotland (NFUS) gave a joint presentation on their respective roles as Access Officers for land management bodies. In summary, their roles are to:
  - Advise members on issues relating to the Act<sup>1</sup> and the Code<sup>2</sup>;
  - Liaise with access authorities on access disputes when instructed to by their members;
  - Attend meetings as representatives of the land management community such as the National Access Forum; and
  - Provide training and support to members on access, for example privacy workshops and topic codes.
5. These duties were illustrated with two case studies. It was highlighted that through membership of both organisations the bulk of Scotland's private land holdings were represented.
6. Jamie Williamson informed the Forum that as a member of the SRPBA he had sought advice from them and found it to be very useful. In discussion the main points raised were:
  - Wild camping, problems of people camping near roads and charging for camping
  - Patterns of complaints or problems related to access that were raised by land managers across Scotland
  - Dangerous animals and signage
  - Updating of the Code

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<sup>1</sup> Land Reform (Scotland) Act 2003

<sup>2</sup> The Scottish Outdoor Access Code

- How to deal with people who were not engaging with the process and how to get messages across
7. A paper was circulated which provided feedback from an event held by NFUS and SRPBA for all of their members on Local Access Forums.

### **Permissions and liabilities**

8. Bob Grant introduced this paper which sought advice from the Forum on cases where individuals and groups have had imposed restrictions on them when informing a land manager of their intended route. The Forum was reminded that this paper sought advice relating to groups and individuals, **not** organised events as these were covered by another section of the Scottish Outdoor Access Code.
9. The paper was presented making a clear distinction between permission and liability and reference was made to the different law in dealing with liability issues south of the border.
10. It was brought to members' attention that Peter Ord had circulated an e-mail to all Forum members in response to this paper prior to the meeting and members were asked to consider it as part of the discussion.
11. Members of the Forum discussed the issues and the following points were made:
- Advice can be given by land managers to access takers but it is not appropriate to phrase it as a condition of granting "permission"
  - Advice should not be seen as a deterrent to taking access
  - It is reasonable that advice can be given on how to act responsibly during particular management operations;
  - Hill phones are useful way to provide advice on deer related issues;
  - It is important that we are not re-writing the Scottish Outdoor Access Code and generally we should encourage land managers to make reference to it when given advice on access
  - It was noted by all that the wording of a letter both from an access taker and a land manager is sometimes difficult to phrase and can easily be misconstrued. The use of the word "permission" relating to access to land is especially hazardous;
  - It is courteous for recreational users to establish what the current land management issues are and to notify land managers of their intentions but it is not always necessary to ask "permission" to take access and in some cases, doing so may cause confusion about the extent of access rights; and
  - It would be appropriate for groups to be encouraged to take out liability insurance in certain circumstances but this is a matter for them to decide on and should not be phrased as a condition of access.

### **Conclusions**

In summary the Forum's advice was:

- It was agreed that the use of the word “permission” was not appropriate for individuals and groups and that any advice given should be consistent with the Code.
- Recreational users and those taking access should be discouraged from seeking permission for matters that are covered by access rights. They should, however, be encouraged to make contact with land managers in certain circumstances
- Public liability insurance can be advantageous for groups in certain circumstances and it is sometimes appropriate for land managers to encourage groups to have such cover. However making such cover a condition of taking access is inappropriate and could be viewed as irresponsible behaviour on the part of the land manager
- Alerting the public to potential risks and hazards was seen as good practice provided that the advice was consistent with the Code.
- Whether there is a greater duty of care on land managers when individuals or groups have sought “permission” advice was not fully established.

**AP2: BG/MF to seek further advice on the matter of any additional duty of care when advice or “permission” had been sought from the land manager.**

**Update on outdoor access case work**

12. This paper was introduced by Bob Grant and members and the following comments were raised:
  - The Outdoor Access staff were commended for resolving 25 cases through to closure;
  - The revised format for presenting casework information in a clear and understandable manner was approved; and
  - Fran Potheary was commended for the clarity of the paper.
  
13. Murray Ferguson then informed the Forum of the ongoing negotiations with the Local Authority Ranger Services who are being encouraged through a simple agreement to be more involved in the access casework. It was understood that this should already be possible as the work was generally grant-aided by SNH and agreed through work plans. He outlined that to date Aberdeenshire Council were the only Council who had been reluctant to sign the agreement. The Convenor asked if there was anything that the Forum could do to assist at present but it was agreed that, at this stage, it was a matter that required further discussion amongst officers from the relevant organisations.

**AP3: MF to report back on the Ranger negotiations at the next meeting**

**Annual Report 2005-06**

14. This paper was introduced by Bob Grant who informed all present that the chosen format was based on other reports produced by national parks in England. Those present were then asked to comment on the content and format, the following comments were received:

- As per item 5 subsection 11 of the last minutes there should be examples of cases resolved;
- The Convenor and Vice Convenor should be at the top of the pen portrait list
- There needs to be more on how everybody works together
- The Annual Report will be archived so it needs to be right
- The pen portraits could be moved to an appendix
- There is a need to get across the key issues that have been discussed
- Section 2 should include more information on what everybody else has been doing i.e. CNPA, SRPBA, PFAP, SNH etc
- Section 4.5 annual event - a brief summary of the feedback needs to be added
- Grammar and spelling needed to be checked

## **Conclusions**

The report should be revised to include access issues that had come to the Forum and include a summary of the annual meeting. Pen portraits should be amended to include the particular sector they are representative of e.g. community, land manager, recreational user or public body.

### **National Access Forum liaison meeting**

15. Bob Grant introduced this paper and reflected that those who attended last year had found the event very useful.
16. Two volunteers were sought to attend this event. Richard Wallace agreed to attend again with a vacant space remaining.

**AP4: All to consider if they would like to attend as one place is still available and to liaise with Richard about travel details etc.**

### **Updates**

#### **Core Path Planning**

17. Sandra Middleton introduced this update and the following was reported:
  - The first Land Manager Workshop was held on Monday 4 September with 16 in attendance including two CLOAF members Nic Bullivant and Jamie Williamson. Feedback had been positive and opportunity was given to all to raise their concerns which have been logged by the CNPA. A comment was made that we needed to be clearer about the sort of paths that were likely to be Core Paths. The next meeting will be in Ballater on Thursday 7 September and will be chaired by Peter Ord with a talk by Andy Wells;
  - A pilot had been carried out at Braemar Primary School which had proved successful with positive feedback from the school;
  - Both Sandra and Adam had attended the Lonach and Braemar gatherings to consult visitors and the findings will be reported soon;
  - The questionnaire for the community consultation has been produced and copies were circulated, the form will be available on

the website and will be in two formats, one for the community and one for the actions areas as described in the Outdoor Access Strategy.

**AP5: Forum members were encouraged to attend local meetings and feed back views on the questionnaire**

#### **Outdoor Access Strategy**

18. BG informed all that the closing date for comment was Monday 11 September.

**AP6: Forum members are asked to submit comments on the OAS by Monday 11 September**

#### **Outdoor Access Trust**

19. BG introduced this update and reported the following:

- Paper was presented to the Board on the 30th of June outlining proposals and was accepted
- Advice from SNH policy unit (who have considerable expertise in the setting up of Trusts) had been sought and given; and
- A paper will be presented at the November CNPA Board meeting outlining the potential options.

#### **Outdoor Access Website**

20. SM presented this update and apologised if Forum members had found the feedback period too short but this was due in part to the designers providing only limited time for corrections.

21. SM thanked members for their feedback on the test pages and give a brief outline of the format of the pages and revisions.

**AP7: Forum members who wish to edit their pen portrait should contact Sandra as soon as possible**

#### **Update and forward Looking**

22. BG introduced a paper seeking comment on a format for an update and forward look paper to be presented at all future meetings

**AP8: All to consider paper and report back in the next 2 weeks.**

#### **Date of next meeting**

23. This will be held on Tuesday 31 October at a venue to be confirmed in Deeside

**The meeting closed at 20:40**