

CAIRNGORMS NATIONAL PARK AUTHORITY

Title: SCOTTISH OUTDOOR ACCESS CODE

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Purpose

The purpose of this paper is to seek the Board's approval to the process for agreeing the Board's response to the current consultation on the Scottish Outdoor Access Code.

Recommendation

Members are invited to agree that officers should prepare a draft response and circulate to Members for comments. The response will then be finalised by a sub-group of Board members and submitted to Scottish Natural Heritage by the end of June.

Executive Summary

Scottish Natural Heritage is seeking responses to a draft Scottish Outdoor Access Code. The preparation of this Code is a requirement of the Land Reform (Scotland) Act 2003. It will provide the detailed reference point for the new access rights and responsibilities conferred by the Act.

Outdoor recreation is clearly a very important activity within the Park, and its promotion is specifically stated in the aims of the Park. Further the National Park Authority has a general duty under the Act to uphold access rights in the Park as the area's Access Authority.

Against this background, it is entirely appropriate for the National Park Authority to prepare a response to the consultation to help SNH refine the Code to reflect the needs of those who enjoy, provide and manage access and outdoor recreation in the Park within the context of all 4 of the Park's aims.

SCOTTISH OUTDOOR ACCESS CODE

Background

1. The Land Reform (Scotland) Act 2003 establishes access rights to Scotland's outdoors and says that access and land management must be exercised responsibly. The legislation aims to create greater opportunities for walkers, cyclists and horse riders to enjoy the countryside. The Act provides the framework of responsible conduct for exercising and managing access, and states that further guidance on access rights and responsibilities will be provided by a Scottish Outdoor Access Code to be drawn up by Scottish Natural Heritage.
2. The Act clarifies where people have a right to be for recreation and educational purposes, and for crossing over land and water. The Code is concerned with how access rights should be exercised and how land managers can help. It clarifies, in practical terms, where and when access rights can be exercised and for what purposes, and sets out the responsibilities of the public and land managers. It also provides practical guidance to interpreting the rights and responsibilities for the most common situations and advice on where to get help, including how to deal with irresponsible behaviour and information.
3. In the event of a dispute, the Code will provide a reference point for determining whether a person has acted responsibly. As such, the Code will have "evidential status", although failure to comply with the Code will not, of itself, be an offence.
4. As the Code is the reference point for responsible behaviour, access rights can only be exercised after the Scottish Outdoor Access Code has been approved by Ministers and the Scottish Parliament. This is likely to be at some point in 2004.
5. Scottish Natural Heritage published the draft Code was for consultation in March 2003 with responses required by the end of June 2003.

The Role of the National Park Authority

6. The Land Reform (Scotland) Act 2003 is a very significant piece of legislation, and the Access Code will be extremely influential in guiding the way that outdoor recreation is enjoyed.
7. The Cairngorms National Park is renowned as a location in which to enjoy the outdoors, and the promotion of this enjoyment is one of the aims of the National Park. Further, outdoor recreation in its many forms is a key component of the area's tourism, and as such is of great importance to the local economy, as well as being an increasingly important component of healthy living and social inclusion programmes.
8. As well as establishing access rights, the Act designates the National Park Authority as the Access Authority for the National Park. Amongst other duties, this requires the Park Authority to uphold access rights in the Park.

9. Given the importance of outdoor recreation to the National Park, both as a nationally important asset for outdoor recreation and for its economic and social benefits, and the duty on the Authority to uphold access rights as the Access Authority, it is important that Members understand the implications of the Code, and respond to the consultation.

A Response to the Consultation

10. In the time available, it is proposed that officers prepare a draft response, and then circulate it to Members for comments. Thereafter it is proposed that the Board delegate the responsibility of finalising the response to a sub-group of members. This is necessary as a response is required well before the next meeting of the full Board in September 2003.

Timetable

11. The deadline for responses is the end of June. It is therefore proposed that officers circulate a response by 30th May and seek comments from Members by 13th June for subsequent agreement with the sub-group.

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