

**THE HIGHLAND COUNCIL**

MINUTES OF THE  
CAITHNESS LOCAL ACCESS FORUM  
HELD IN  
THE BAND ROOM, THURSO TOWN HALL, THURSO  
ON  
MONDAY, 13<sup>TH</sup> JUNE, 2005

**Present:**

Mr Ken Butler (Chairman)	Councillor John Green
Mr William Bruce (Vice-Chairman)	Mr David Hall
Ms Gail Baker	Mr Chris Hobson
Mr Willie Beattie	Councillor Graeme Smith
Mr Robert Coghill	Mr George C Walker
Mr Steven Fraser	

**In Attendance:**

Mr Geoff Robson, Head of Environment, The Highland Council  
Mrs. Fiona Sinclair, Area Solicitor/Administrator, The Highland Council (Clerk)  
Mr Robert Grant, Scottish Natural Heritage  
Mr David Barclay, Access Officer, The Highland Council  
Mr Adam Streeter-Smith, Paths For All Partnership  
Mrs Mary Legg, Caithness Ranger, The Highland Council

**1. INTRODUCTIONS**

Mr Butler welcomed Members and Officials to the meeting and everyone present introduced themselves.

**2. APOLOGIES FOR ABSENCE**

Apologies for absence were intimated on behalf of Mr Terry Keatinge and Mr Peter Blackwood.

**3. CHAIRMAN'S REMARKS**

Mr Butler reported that there had been no developments since the Forum last met on 11 April 2005.

**4. MINUTES OF PREVIOUS MEETING AND ACTIONS ARISING**

The Minutes of the Meeting of the Forum held on 11 April 2005 were held as read and were approved.

**5. PRESENTATION ON DEVELOPMENT OF SCOTTISH OUTDOOR ACCESS CODE –  
MR ROBERT GRANT, SCOTTISH NATURAL HERITAGE**

Mr Butler introduced Mr Robert Grant of Scottish Natural Heritage who had come to the meeting to address the Forum on the Development of the Scottish Outdoor Access Code. Mr Grant began by congratulating the Forum members on availing themselves of this exciting opportunity to adopt an important role in taking access issues forward in Caithness.

Mr Grant began his address by setting the Land Reform (Scotland) Act 2003 in its context historically, and describing the rights and responsibilities it confers on access users. In brief, everyone has the statutory right to cross land and be on land for (a) recreational purposes (b) relevant educational activities and (c) carrying on commercially or for profit an activity which they would have the right to do otherwise, eg being a mountain guide or a photographer.

He said that the Scottish Outdoor Access Code which has been approved by Ministers and by the Scottish Parliament is a detailed reference and guidance point on responsibilities under the Act: it interprets legislation, advises on everyday situations and is a basis for shorter topic codes. The evidential status of the Code means that in the event of a dispute which has been referred to the Sheriff Court by either an access taker or a land manager, the Sheriff may refer to the Code to decide, for example, whether the Code has been followed or to define responsible behaviour, taking into account the three principles of the Code which are (i) respect for the interests of other people, (ii) care for the environment and (iii) taking responsibility for one's own actions. Mr Grant then went through some examples, explaining in each case, what the legislation says, and how the Code interprets the legislation.

Mr Grant explained that the Highland Council and SNH have responsibility to promote the Code by means of the Access Code Education Programme which is a training and advice programme with the stated aim of "achieving a high level of awareness and understanding of the Code and its key messages". This aim is to be achieved, among other things by means of a mass media campaign, visual identity (logos, signs), and the Scottish Outdoor Access Website. The audiences to whom the Access Code Education Programme is targeted are the general public, dog owners, land and water managers, recreation managers, recreation bodies, active recreation users, visitors to Scotland, education providers, commercial interests, the MSPs, MPs and local councillors, the Health and Safety Executive, and the Police. Mr Grant suggested that the Forum members should develop means of communicating and negotiating with all colleagues on community groups, recreational users and land management interests.

In conclusion, Mr Grant reminded the Forum that the new rights conferred by the legislation are married with new responsibilities, and that these responsibilities apply to both recreational users and land managers. He said that the Code provides examples for every day situations and that education and communication will be a key to the success of the Code. Finally, he drew the attention of the Forum members to three useful websites, namely [www.outdooraccess-scotland.com](http://www.outdooraccess-scotland.com), [www.snh.org.uk](http://www.snh.org.uk) and [www.pathsforall.org.uk](http://www.pathsforall.org.uk).

The Chairman then invited the Forum members to ask questions on Mr Grant's address. Firstly it was suggested to Mr Grant that the Forum provides a lot of freedom to access takers, and may work against the land managers. Mr Grant commented that local authorities have a duty to uphold access rights while there is no duty on local authorities to uphold the land managers' rights. However he reminded the Forum of the three principals of the Code and in particular the principal of respect for the interest of other people. Councillor Smith suggested to Mr Grant that individual access users may be happy to enjoy their access rights but not understand the related responsibilities and may in fact behave irresponsibly. In response Mr Grant advised that in the event of irresponsible behaviour as a result of malice then criminal offences may be committed and the existing criminal law may apply. In the event of irresponsible behaviour arising as a result of ignorance then the education programme should take care of this. And Mr Grant suggested that in the event that there are good reasons for signs to prohibit entry into a particular part of the countryside, for example as during the foot and mouth outbreak of 2001, then generally members of the public are co-operative and will accept advice given for a good reason.

In response to an enquiry from Mr Coghill as to whether it would be possible to prohibit access in order to protect nesting birds, Mr Grant explained that the National Access Forum set up in 1994 is currently exploring the issue of standard signage for such circumstances, and it was noted that by next year additional guidance will be in place on this point.

The Chairman thanked Mr Grant for his attendance at the meeting.

## **6. PROCEDURE FOR CONDUCT OF MEETINGS AND CONDUCT OF MEMBERS**

There had been circulated draft Standing Orders prepared by Mrs Sinclair. Mrs Sinclair advised that the draft Standing Orders had been circulated in the different areas of the Council. The Forum members agreed to adopt the draft Standing Orders meantime, and it was noted that the Standing orders would be reviewed annually.

Mrs Sinclair circulated the draft Code of Conduct for evolved public bodies and it was agreed that the Code of Conduct would be discussed at the next meeting of the Forum.

Mr Robson commented that it may not always be possible to place applications for exemptions before a full meeting of the Forum. It was therefore agreed that where it was not possible that exemption applications could be considered by the Forum, powers would be remitted to the Chairman in consultation with two other Members to make a final decision on such applications.

## **7. TASKS FOR THE FORUM**

### **(a) Agree a Remit**

The Chairman referred to the Remit document which he had circulated in draft form. The Forum agreed to remove the words “when requested” from the first bullet point, notwithstanding the terms of the Scottish Executive Guidance in relation to Section 25(3) of the Act. The Forum also agreed to add an extra bullet point as follows “providing advice to The Highland Council on exemption Orders under Section 11 of the Land Reform (Scotland) Act”. A copy of the finalised Remit is appended to this Minute.

There followed some discussion as to how the Forum Members could develop their knowledge and understanding of access issues. Individual Members accepted that they would require to self-educate, and it was noted that this would be an iterative process. The Forum noted a suggestion by Robert Grant that meetings be preceded by site visits, and it was agreed that David Barclay would continue to bring access issues to the Forum in order that Members could become familiar with particular situations.

### **(b) Communications Strategy**

Mr Adam Streeter-Smith circulated an Outline Communication Plan which he suggested set the Forum in context and demonstrated the role of the Forum Members as communicators with the wider groups they represent. The Forum agreed that it would launch itself publicly at a suitable opportunity by issuing a press release to be prepared by Mr Robson. Following the launch it was recognised that individual Members, and in particular the Chairman were likely to receive representations from members of the public.

### **(c) Core Path Planning**

Mr Robson intimated that a document entitled Core Path Plans Guidance will be issued before the end of the month and would then be circulated. He suggested that the Core Paths Plan is one step short of the Local Plan. The finalised document requires to be approved by the Scottish Ministers, and any objections which cannot be resolved are referred to a public local enquiry. It was noted that the deadline for submission of the Plan to the Scottish Executive is February 2008 and that although there will be six Core Path Plans in the Highlands the Scottish Executive encourages cross boundary links. Mr Robson advised that the guidance on Core Path Plans would be formally received by the Council at its Planning Development Europe and Tourism Committee in September. Mr Streeter-Smith suggested that it would be prudent for the Forum before considering the Core Path Plan to fully consider the concept of Core Paths.

### **(d) Strategy**

Mr Robson said that an overall Strategy document for Local Access Forums was in the course of being prepared.

### **(e) Stakeholders**

The Forum agreed that individual Members would make up lists of Stakeholders of whom they were aware and send them to Laura Burns in Mr Robson’s Section. The list of Stakeholders prepared by the Cairngorm National Park would be passed by Mr Robson to Mrs Sinclair for circulation to the individual Forum Members. Stephen Fraser suggested that it would be appropriate for the Forum Members to make contact with the local schools to inform them of the aims of the Forum.

**8. REPORT ON WORKSHOP FOR ACCESS FORUM MEMBERS WHO ARE RECREATIONAL USERS**

Mr Bruce attended a Workshop and prepared a report, a copy of which is attached for circulation to Members. The Forum noted the terms of the report.

**9. ACCESS ISSUES**

Mr David Barclay reported on various access issues in which he had been involved. In particular he referred to an instance where a stile had been replaced with a gate in order to facilitate equestrian access and access for cycle users at Broubster Forest. He said that the main problems reported by members of the public to him as Access Officer are maintenance issues and inappropriate signage on access routes.

The erection of "shooting in progress" signs at entrance gates to forest plantations was also discussed. Mr Barclay explained that such signs could be considered appropriate for land management operations where the land manager perceives a risk to members of the public exercising their access rights. However, the use of such signs requires close monitoring to ensure that they are not misused in order to prevent access. Mr Barclay undertook to further investigate this issue.

Discussion followed on various individual access issues. Mr Coghill enquired as to whether it would be appropriate to padlock a gate which had been wilfully left open by passers by leading to the release of livestock on to the trunk road. This was recognised as a difficult problem to solve, and it was suggested by Mr Grant that a kissing gate may be appropriate in such circumstances.

**10. DATE AND PLACE OF NEXT MEETING**

It was agreed that the next meeting would be held on Monday 22 August 2005 in the Mowat Room, Assembly Rooms, Wick. In order to allow further time for discussion it was agreed that the meeting would commence at 7.00pm.

**CHAIRMAN.**