

National Access Forum

First Annual Report: 2004-2005

Introduction

Part 1 of the Land Reform (Scotland) Act 2003 came into force in February 2005, introducing rights of access to most land and inland water in Scotland. These rights are subject to responsible behaviour, which is described in the Scottish Outdoor Access Code. Scottish Natural Heritage (SNH) has a statutory duty to keep this Code under review, and Ministers indicated that SNH should convene an Access Forum to assist with this task.

During 2003, SNH conducted a public consultation to determine the precise structure, functions and membership of a new National Access Forum, and discussed these issues with the previous Access Forum. As a result of this process, SNH published proposals for the role and composition of the new body in *A National Access Forum for Scotland* (February 2004). SNH subsequently co-ordinated the establishment of the Forum along these lines, and the new body was in place for commencement of the access rights.

The aims of the Forum are to help:

- facilitate responsible enjoyment of the outdoors;
- encourage responsible management of land and water in relation to access; and
- ensure that the reasonable needs of privacy, safety and conservation are safeguarded.

The Forum seeks to achieve these aims by:

- advising SNH and other bodies on national issues arising from implementation of the access legislation;
- advising on the effectiveness of the *Scottish Outdoor Access Code* and on work to publicise and promote it;
- advising on best practice in access provision and management;
- advising on other access-related issues of national importance which relate to responsible enjoyment of the outdoors, and;
- liaising with the new local access forums and advising SNH on their consistency in dealing with issues arising from the legislation.

The Forum is organised as a single body with 25 members, which can establish sub-groups as necessary to look at more complex or contentious issues. There are equal numbers of bodies representing land management and recreation interests, with common membership criteria which specify that each body should be membership-based, authoritative and committed to effective liaison with a broad constituency.

The Forum also includes public bodies, including COSLA and SNH, which have critical roles in the implementation of the new rights, and representatives of relevant commercial/tourism, education and conservation interests. The Scottish Executive attends as an observer.

The membership of the Forum is as follows:

- user bodies (six)
- land management bodies (six)
- public bodies (five)
- other representative bodies (five: commercial/tourism body, education body, conservation body, and two other bodies selected by the Forum)
- convenor (one)
- two seats are reserved for representatives of local access forums.

A key element in the proposals for the future of the Forum was that, in contrast to the previous Access Forum, the role of Convenor should not necessarily be linked to SNH. Any member body, or member of the wider recreation and land management constituencies, can therefore propose and vote on nominations. SNH, however, continues to provide the Secretariat to the new Forum.

Another important feature of the proposals was the promotion of greater openness and wider participation in the work of the Forum, and this has been pursued by a number of approaches. Member bodies are selected democratically from wider constituencies of recreation and land management bodies, and those representative bodies which are not selected for full membership, along with professional bodies, are able to participate as corresponding members. All Forum papers are available on a dedicated Access Forum microsite at www.outdooraccess-scotland.com, and submissions on Forum papers are invited from any interested parties, including individual members of the public. As noted below, the Forum will hold future regular meetings in public.

In line with the aim of greater openness, it was also proposed that the Forum should produce an Annual Report. This is the first such report, describing the work that has been undertaken from February 2004 to September 2005. Now that the Forum is in place, future reports will be produced on an annual cycle. During the period covered by this report, considerable effort has been directed towards the establishment of the Forum, and the new body has also begun to address practical issues arising from the implementation of the new access rights.

Establishment of the National Access Forum.

Identification of Forum members

During early 2004, SNH contacted a wide range of recreation and land management bodies which fulfilled the criteria noted above, explaining the proposed structure of the new Forum and inviting expressions of interest. This was followed by a briefing meeting held in Perth on 22nd March, which was attended by representatives of recreation and land management bodies that had indicated their willingness to assume a representative role on behalf of particular 'constituencies' (a total of 18 organisations). Discussion between bodies representing each constituency identified, on a consensus basis, those which should sit as full members of the Forum. These bodies, and their constituencies, are as follows:

Recreation bodies

- Ramblers Scotland (RAS; walking)
- Cyclists' Touring Club Scotland (CTC; cycling)
- British Horse Society Scotland (BHS; equestrian)
- Scottish Canoe Association (SCA; water-based recreation)
- Mountaineering Council of Scotland (MCofS; mountaineering/skiing)
- Scottish Sports Association (SSA; other interests; caving, hang-gliding, orienteering etc)

Land management bodies

- NFU Scotland (NFUS)
- Scottish Rural Property & Business Association (SRPBA)
- Forestry & Timber Association (FTA)
- British Association for Shooting & Conservation (BASC)
- Association of Deer Management Groups (ADMG)
- Historic Houses Association (HHA)

In view of the overlap between their areas of coverage, it was agreed that the above six bodies would collectively represent all land management interests.

The original proposals for composition of the new Forum indicated that SNH and the Convention of Scottish Local Authorities (COSLA) should be full members. SNH invited a range of interested public bodies to attend a meeting to determine which other public sector organisations should be directly involved. This meeting took place in Edinburgh on 5th May 2004, and was attended by representatives of eleven public bodies. It was agreed that sportscotland (SS), the Forestry Commission (FC) and Scottish Water (SW) should fill the remaining three seats allocated for such organisations.

Two further proposals were floated at this meeting:

- It was suggested that VisitScotland (VS) should be invited to participate as an additional full member. This proposal was subsequently agreed by the Forum, on the basis that SNH should relinquish voting rights to maintain the numerical balance, for voting purposes, between the different sectors on the Forum. VS has not yet taken up this offer and SNH is currently, therefore, a voting member of the Forum.
- The possibility of direct representation of the National Park Authorities was also considered. The Forum subsequently agreed that the NPAs should have a joint representative occupying, for the time being, one of the two seats reserved for representatives of local access forums.

The Forum also includes five seats reserved for representatives of other groups with an interest in the access rights, which must include at least one representative of relevant educational, commercial and nature conservation interests. These members are selected jointly by the recreation and land management bodies on the Forum, in order to help maintain a general balance between these two main sectors. SNH contacted a wide range of relevant bodies in early 2004 to seek expressions of interest, and these were considered by the recreation and land management bodies at an initial meeting of the new Forum on 26th May 2004. As a result of this process, it was agreed that the remaining five members should be:

- Scottish Advisory Panel for Outdoor Education (SAPOE; educational users)
- Activity Scotland (AS; commercial users)
- Royal Society for Protection of Birds (RSPB; conservation bodies)
- Scottish Rights of Way & Access Society (SRWAS; other relevant interests)
- Farming & Wildlife Advisory Group (FWAG; other relevant interests)

The full and corresponding members of the Forum are listed in Annex 1.

Selection of the Convenor

As noted above, the Convenor of the new Forum need not necessarily be linked to SNH, and an early task for the Forum was to identify a suitable person to assume this role. During 2004, this role was fulfilled, on an interim basis, by John Markland, Chairman of SNH.

At its initial meeting in May 2004, the Forum discussed the approach by which a new Convenor should be selected. This process was then implemented by SNH, and included the preparation of a Job Description and the subsequent invitation of nominations from Forum members. Six candidates were put forward for this role, and the selection process was conducted at a special meeting held on 12th November 2004, at which all nominees were invited to make a short presentation to the Forum.

As a result of this process, the Forum selected Bob Reid as its new Convenor. It was agreed that the Convenor should serve for two years in the first instance, with the possibility of extension for a further two year term.

Operation of the Forum

During its initial meetings, the Forum has clarified and finalised a number of important principles which will guide both its operation and its communication with others.

- The Forum has developed agreed operating principles which set out its role and status, its membership and the procedures by which business will be conducted, including liaison with corresponding members. These are presented in Annex 2.
- A simple procedure has been agreed under which the Forum will comment on draft guidance on responsible behaviour that has been passed to SNH for consideration, where this raises particular issues that would benefit from wider input.
- In considering the form and function of the new Forum, the SNH Board recommended that the new body should move towards open public meetings. The Forum has considered this issue and has agreed both the general principle and the practical details of the conduct of such meetings. All future full meetings will normally be held in public.
- At meetings held in early 2005, the Forum discussed at some length how best to promote liaison with local access forums. A number of mechanisms already exist to

achieve this, including e-mail circulation and posting of papers on www.outdooraccess-scotland.com, and local forums can contribute comments or points for discussion at the national Forum via the Secretary. The Forum has undertaken to organise an annual meeting to promote such liaison, and the move to open meetings, as noted above, should also facilitate information flow between national and local levels. The status of the two seats reserved for local forum members will be discussed at the first NAF-LAF liaison meeting, which will take place in September 2005.

- The Forum has also considered how best to liaise with disability interests. This will be achieved by direct liaison between the Secretariats of the NAF and the Access for All – Scotland Forum, which is being convened by the Paths for All Partnership (PFAP). A pilot meeting took place on 20th June 05 (attended by the NAF Convenor and Secretary) to lay the foundations for the Access for All Forum, and the two bodies will remain in close contact.

The commencement of access rights on 9th February 2005 was a pivotal point in the development of the Forum. An evening reception for Forum members took place at the Scottish Parliament on 20th April, at the invitation of Lewis Macdonald MSP, Deputy Minister for Environment & Rural Development. This was attended by a number of Forum members, and the outgoing Interim Convenor, John Markland, acknowledged the contributions of all parties in the development of the access legislation, and emphasised the Forum's commitment to its successful implementation.

Achievements during 04-05

Although much effort during this period has necessarily been directed towards the establishment of the Forum, a number of practical issues relating to the implementation of access rights have also been addressed. These are grouped according to the functions of the Forum, as indicated in the Introduction.

Advising SNH and other bodies on national issues arising from implementation of the access legislation

A number of Forum members have emphasised the importance of ensuring that adequate funding is available for implementation of the legislation. The Forum has received regular updates on this issue over the last year from the Scottish Executive and SNH, and will keep track of developments through a standing agenda item. This discussion will be informed, in due course, by the results of SE monitoring.

The Forum has considered options for promoting greater awareness of the access legislation in various public bodies, and has encouraged the Scottish Executive to present an internal seminar, including a broad cross section of departments, for this purpose. The Forum has offered to assist as necessary in the organisation of this event.

During 2005, Forum members commented on a number of consultations regarding access issues of importance at national level. These included consultation on proposed 'Sewel Motions' linked to the UK Serious Organised Crime & Police Bill and Natural Environment & Rural Communities Bill. These motions respectively related to proposals to restrict access to certain sites designated for reasons of national security, and to the structure and administration of a number of cross-border public bodies, including the Inland Waterways Amenity Advisory Council. Members also commented on a consultation, on behalf of the Scottish Executive Environment & Rural Affairs Department, on research to support the development of Land Management Plans as part of the Land Management Contract Scheme.

Advising on the effectiveness of the Scottish Outdoor Access Code and on work to publicise and promote it

During 2004, SNH drafted three short 'introductory' versions of the Access Code, which form an important element in the Code education programme. The Forum made a considerable input into the development of these texts, in part through a specially convened meeting held in August 2004. The longest of these texts has now been published as the SNH *Know the Code* leaflet, and all three are available on www.outdooraccess-scotland.com. One of these 'introductory codes' is reproduced in Annex 3.

The Forum has also received regular updates from SNH on preparation of Access Code publicity materials and the Code education programme, and has discussed these issues on several occasions. These discussions have been disseminated to the network of corresponding members and other corresponding contacts through the usual communication channels.

Advising on best practice in access provision and management

During late 2004 and 2005, the Forum has made an extensive input to the development of guidance on signage for land managers and associated sign templates, which was led by SNH. This work has been conducted by a sub-group of the Forum (see Annex 4), which has operated primarily by correspondence, with one meeting in June 2005. The resulting

guidance will shortly appear on www.outdooraccess-scotland.com, and it is anticipated that the sign templates will also be available within the next 2-3 months.

SNH and the Paths for All Partnership have developed guidance for access authorities on the core path planning process, and Forum members commented on this at draft stage during the spring of 2005. This has now been published as *Core Paths Plans: a guide to good practice*.

In late 2004, the Forum commented on a draft information leaflet for paddlers produced by the Scottish Canoe Association. This has now been published by SCA as *Key points of the Access Code for Paddlers*.

Advising on other access-related issues of national importance which relate to responsible enjoyment of the outdoors

In response to a paper tabled by the Scottish Rural Property & Business Association (SRPBA), the Forum has considered whether further action might be required in support of land managers affected by irresponsible behaviour. The Forum sought and received further comments on this issue from the Association of Chief Police Officers Scotland (ACPOS) and COSLA, and discussion is ongoing.

The Forum has also been involved in discussions with Network Rail regarding access across private level crossings. A meeting took place in autumn 2004 involving a number of interested parties, including SNH, and the Forum was represented by the Interim Convenor, John Markland. As a result of these discussions, a pilot exercise has been established at a number of crossings in the Highlands, to explore the potential for positive management that will both support access rights and address safety concerns. In order to assist this process, the Forum has sought a legal opinion on the status of access over private crossings, with support from sportscotland, and has obtained data on past incidents at crossings through Her Majesty's Rail Inspectorate (HMRI). Discussion of this issue is also ongoing.

Liaising with the new local access forums

The part of the Forum's remit is of general importance to the realisation of the other objectives listed above, and is likely to gain momentum as the network of local forums becomes established. The Forum has organised its first annual liaison meeting with the local Forums to give additional impetus to such liaison, and this meeting will take place in September 2005.

The meetings held by the Forum to date are listed in Annex 5.

Further information

Additional information about the National Access Forum, including the papers of all the meetings conducted during 2004-2005, can be obtained at www.outdooraccess-scotland.com. If you have any other queries about the Forum, or would like to discuss any aspect of the Forum's work, please contact:

Mark Wrightham
Secretary, National Access Forum
c/o Scottish Natural Heritage
27 Ardconnel Terrace
Inverness
IV2 3AE

01463 667922 (direct)
mark.wright@snh.gov.uk

Annex 1: Full and corresponding members of the National Access Forum

Member organisations are grouped into the 'constituencies' used to ensure that the Forum is balanced and broadly representative. Full members are indicated in **bold**.

Recreation bodies within access rights

British Horse Society

British Cycling

Cyclists Touring Club (Scotland)

International Mountain Bicycling Association-UK

Mountaineering Council of Scotland

National Caving Association

Ramblers' Association Scotland

Rough Stuff Fellowship

Royal Yachting Association (Scotland)

Scottish Amateur Rowing Association

Scottish Canoe Association

Scottish Carriage Driving Association

Scottish Countryside Activities Council

Scottish Cycling Union

Scottish Equestrian Association

Scottish Hang Gliding & Paragliding Federation

Scottish Hill Runners

Scottish Orienteering Association

Scottish Sports Association

Snowsport Scotland

Sub Aqua Association (Scotland)

Trail Cyclists Association

Land management bodies

Association of Deer Management Groups

Association of Salmon Fishery Boards

British Association for Shooting & Conservation

Forestry & Timber Association

Historic Houses Association of Scotland

NFU Scotland

Scottish Crofting Foundation

Scottish Estates Business Group

Scottish Golf Union

Scottish Rural Property & Business Association

Public bodies

British Waterways Scotland

Convention of Scottish Local Authorities

Forestry Commission

Health & Safety Executive

Historic Scotland

Ministry of Defence

National Park Authorities

Scottish Enterprise

Scottish Natural Heritage

Scottish Water

Sportscotland

Visitscotland

Other bodies

Education bodies

Boys Brigade
Field Studies Council
Girls Brigade
Guide Association Scotland
Outward Bound Scotland
Royal Highland Educational Trust
Scottish Advisory Panel for Outdoor Education
Scout Association Scotland
Duke of Edinburgh Award Scheme

Commercial/tourism bodies

Activity Scotland

Association of Mountain Guides
Association of Mountaineering Instructors
British Holiday and Home Parks Association
Scottish Chambers of Commerce
Scottish Youth Hostels Association
Trekking & Riding Association of Scotland

Conservation bodies

John Muir Trust
Scottish Environment Link
National Trust for Scotland
Royal Society for the Protection of Birds
Scottish Wildlife Trust
Woodland Trust

Other relevant interests

Association of Scottish Community Councils
Cycling Scotland
Farming & Wildlife Advisory Group
Fieldfare Trust
Mountain Bothies Association
Salmon and Trout Association
Scottish Anglers' National Association
Scottish Autocycle Union
Scottish Canine Consultative Council
Scottish Disability Equality Forum
Scottish Federation for Coarse Angling
Scottish Rights of Way & Access Society
Sustrans Scotland

Professional bodies

Association of Chief Police Officers (Scotland)
Association of Heads of Outdoor Centres
Game Conservancy Trust
Law Society of Scotland
Royal Town Planning Institute
Royal Institution of Chartered Surveyors
Royal Scottish Forestry Society
Scottish Countryside Access Network
Scottish Countryside Rangers Association
Scottish Gamekeepers Association
Scottish Raptor Monitoring Group

Annex 2: Operating principles of the National Access Forum

A. The role and status of the Forum

- A1. The Land Reform Act places a statutory duty on SNH to keep the Access Code under review, and to consult 'such persons or bodies as they think appropriate' in fulfilment of this task. The National Access Forum is a voluntary association of interested organisations convened by SNH for this purpose. It is for SNH and Forum members to agree the Forum's composition and remit.
- A2. The overarching aims of the Forum are to:
- facilitate responsible enjoyment of the outdoors;
 - encourage responsible management of land and water in relation to access; and
 - ensure that the reasonable needs of privacy, safety and conservation are safeguarded.
- A3. The Forum will achieve these aims by:
- advising SNH and other bodies on national issues arising from the implementation of the Land Reform (Scotland) Act 2003, including the use of duties and powers, the content and effectiveness of guidance, and resource requirements;
 - advising on the effectiveness of the *Scottish Outdoor Access Code* and on possible improvements to it;
 - advising on work to publicise the Code and to promote understanding of it, and keeping the effectiveness of this work under review;
 - advising on broad principles and approaches to best practice in access provision and management, including codes of practice, advice, signage and standards;
 - advising on other access-related issues of national importance arising from or impacting on responsible enjoyment of the outdoors; and
 - liaising regularly with the new local access forums and advising SNH on their consistency in dealing with issues arising from the legislation.

B. Running the Forum and its meetings

- B1. The Forum will meet 3-4 times a year, or as required.
- B2. Much of the work of the Forum will be conducted through time-limited working groups that report to the Forum. The working groups would most likely be chaired by Forum members but their membership would be drawn from both full and corresponding member bodies.
- B3. The Forum will be chaired by a Convenor who will be appointed by the full members of the Forum. All members of the Forum may put forward nominations for this role. The Convenor will be appointed for two years in the first instance, with the possibility of a further two year term thereafter.
- B4. SNH will provide the Secretariat support for the Forum and will maintain an address and web presence for the Forum.
- B5. Each working group will be serviced by a Forum member organisation, most likely one of the public body members.
- B6. Forum and working group meetings will be minuted. Comments will be attributed to individuals and member organisations.

- B7. Any member organisation can raise agenda items or prepare formal papers for discussion by the Forum with the agreement of the Forum. Formal papers must be with the Secretariat at least three weeks before the meeting.
- B8. Agendas for meetings will be agreed by the Convenor and Secretary. Agendas, papers and minutes will be circulated to all members at least two weeks before meetings (unless otherwise agreed between the Convenor and Secretary). Corresponding members can comment or raise other points through the most appropriate representative on the Forum or through the Secretary.
- B9. A brief meeting report, covering the main issues discussed and action points arising, will be produced, circulated to members and placed on the website within one week of each meeting. The report will be approved by the Convenor and Secretary.
- B10. A detailed note of the meeting will be produced within three weeks of a meeting and circulated to full members for comment on its accuracy and content. The note will then be formally approved at the following meeting.
- B11. The Forum seeks to develop a climate of openness and trust. At each meeting of the Forum, there will be an opportunity for members to declare any relevant interests or actions which are likely to affect the work of the Forum or the business on the day.
- B12. In the unlikely event of a vote on a particular action or activity, all full members will have equal status. Observer members would not vote.
- B13. In joint decisions taken by the Convenor and Secretary, the Convenor will, if necessary, have the final say.
- B14. Scottish Natural Heritage will be a non-voting member of the Forum but will participate fully in all Forum business. The Scottish Executive will be an observer. Note: SNH currently holds the vote for the vacant public body position, which it is hoped to allocate to VisitScotland.
- B15. A work programme will be agreed by the Forum each year. This programme will set out the main areas of work, the main outputs expected and what working groups are likely to be required.

C. Keeping people informed

- C1. Agendas and papers will be placed on the website at least two weeks before a meeting, unless otherwise agreed between the Convenor and Secretary.
- C2. Meeting reports and approved formal minutes will be made public and placed on the website.
- C3. A short annual report will be produced each year. This will be published and placed on the website.
- C4. The annual report will be launched at a meeting which will be open to local access forum members and the wider public. This meeting will take place at a different venue each year, to give a good geographical spread around Scotland.
- C5. Regular meetings of the Forum will normally take place in a central location and will be open to the public. Members of the public attend strictly as observers, and should inform the Secretary beforehand in order to facilitate the arrangements for the meeting.

- C6. Members of the public can contribute written submissions on particular agenda items, which will be circulated to members or tabled at the meeting. These will be in the public domain, although the Convenor and Secretary may withhold material that is offensive or in breach of law.
- C7. Certain agenda items may be discussed in closed session, at the discretion of the Convenor and Secretary.
- C8. The Convenor and Secretary may invite attendance by any individual or organisation that they believe will assist with the work of a meeting. More than one person may be invited to attend, as necessary, on behalf of a particular organisation.

D. The role of member bodies and their representatives

- D1. Each member organisation will have one named representative on the Forum. Each representative can have a named individual who can deputise for them. If neither the nominated representative or their deputy can attend a meeting, the Secretary should be informed in writing at least 1 week before a meeting of who will attend in their place.
- D2. At meetings of the Forum, no more than one formal representative will normally be allowed to attend on behalf of each member organisation.
- D3. Members are expected to bring forward the views of their organisations, their general sector and any corresponding members who have contacted them, and feed back accordingly.
- D4. The Forum should strive to reach a collective view on an issue, and members must be willing to work towards and adopt common positions where possible. Such decisions are binding on the Forum but not on member bodies. Where a common view cannot be reached, the different positions of the member bodies should be identified.
- D5. The work of the Forum must be well-informed, so member organisations are expected to seek the views of their members regularly (such as through a committee).
- D6. The membership of the Forum will be kept under review by SNH and the Forum itself.
- D7. If a representative or their deputy fails to attend three consecutive meetings of the Forum then their membership may be rescinded.

Annex 3: Scottish Outdoor Access Code - introductory version 2

Endorsed text for use in publications (leaflets, maps, promotional items, editorials etc). This text has been endorsed by Scotland's National Access Forum. The Scottish Outdoor Access Code **logo** is also available for use in approved print materials, please contact Theresa Kewell, Scottish Natural Heritage 0141 951 4488 to discuss.

Know the Code before you go

Enjoy Scotland's outdoors. Everyone has the right to be on most land and inland water for recreation, education and for going from place to place providing they act responsibly. These access rights and responsibilities are explained in the Scottish Outdoor Access Code. The key things are:

When you're **in the outdoors**:

- take personal responsibility for your own actions and act safely;
- respect people's privacy and peace of mind;
- help land managers and others to work safely and effectively;
- care for your environment and take your litter home;
- keep your dog under proper control;
- take extra care if you're organising an event or running a business.

If you're **managing the outdoors**:

- respect access rights;
- act reasonably when asking people to avoid land management operations;
- work with your local authority and other bodies to help integrate access and land management
- respect rights of way and customary access

Find out more by visiting www.outdooraccess-scotland.com or phoning your local Scottish Natural Heritage office.

Annex 4: Membership of the Access Forum signage sub-group

- British Association for Shooting & Conservation
- Health & Safety Executive
- Mountaineering Council of Scotland
- NFU Scotland
- Ramblers' Association Scotland
- Royal Society for the Protection of Birds
- Scottish Countryside Rangers Association
- Scottish Natural Heritage
- Scottish Rural Property & Business Association
- Scottish Sports Association

Annex 5: Meetings held during 2004-05

- First meeting 26th May 04
- Meeting to discuss short versions of Code – 18th August 04
- Second meeting 15th Sept 04
- Meeting to select a Convenor – 12th Nov 04
- Third meeting 8th March 05
- Fourth meeting 17th May 05
- Meeting of signage sub-group 1st June 05