

## **ABERDEENSHIRE LOCAL OUTDOOR ACCESS FORUM OPERATING PRINCIPLES**

Revised Version: May 2015 (as agreed 11th May 2015)

### **1.0 Name and Area of Operation.**

1.1 The group shall be called the ABERDEENSHIRE LOCAL OUTDOOR ACCESS FORUM ('the Forum').

1.2 The Forum's area of operation shall be the whole area currently administered by Aberdeenshire Council, and known as "Aberdeenshire", but excluding that part which falls within the boundaries of the Cairngorms National Park, all as shown outlined on the map annexed hereto as Appendix 1.

### **2.0 Functions**

2.1 The function of the Forum shall be to act as the local access forum for Aberdeenshire and to undertake the functions of that body in terms of Section 25 of the Land Reform (Scotland) Act 2003, namely:

- (a) to advise the local authority and any other person or body consulting the forum on matters having to do with the exercise of access rights, the existence and delineation of rights of way or the drawing up and adoption of a plan for the system of core paths under Sections 17 and 18 of the Act.
- (b) to offer and, where the offer is accepted, to give assistance to the parties to any dispute about –
  - (i) the exercise of access rights;
  - (ii) the existence and delineation of rights of way;
  - (iii) the drawing up and adoption of the plan referred to in paragraph (a) above; or
  - (iv) the use of core paths,

towards the resolution of the dispute.

2.2 In undertaking the functions referred to in Paragraph 2.1(a), the Forum shall advise Aberdeenshire Council on strategic access issues, in particular

- i) promote responsible access through assisting in publicising the Scottish Outdoor Access Code and responding to consultations on the Code from Scottish Natural Heritage or, at the Forum's discretion, other competent bodies
- ii) advise the Council in the revision of its Countryside Access Strategy
- iii) promote discussion and the sharing of knowledge, awareness, and good practice in outdoor access
- iv) liaise with the National Access Forum.

2.3 In undertaking the functions referred to in Paragraph 2.1(b), the Forum shall follow the procedures for dispute resolution as set out in Appendix 2 to this document.

2.4 The Forum shall be accountable to and shall report back to the Council as requested, and to the public as the Forum may agree.

### **3.0 Membership**

#### **3.1 The Forum**

The Forum shall consist of Representatives from each of the following sectors. These Representatives shall be elected in accordance with the procedures in Appendix 3 of this document.

#### **3.2 Membership**

The Forum shall contain a maximum of 20 Representatives, who shall be selected from each of the following four sectors:

- i) Agencies/organisations
- ii) Land Managers
- iii) Communities
- iv) Access Users.

in accordance with the principles of: broad balance across these sectors, geographical spread, and skills and knowledge available to the Forum.

In order to deputise for Representatives when necessary, one Reserve shall be appointed for each sector, other than for Agencies and for those organisations who are invited to nominate a Representative; these may nominate their own Reserves. Reserves will have voting and participation rights at Forum meetings only when actually deputising for Representatives.

Members of the Forum shall together comprise the Representatives and Reserves, all of whom shall receive Forum business papers.

All appointments of Members to the Forum shall be ratified by Aberdeenshire Council, by way of approval by the Infrastructure Services Committee or by their delegated authority.

#### **3.3 Chairing**

The Chair and Vice-Chair of the Forum shall be selected by the Representatives from among their number according to the procedure in Appendix 4 of this document. The Chair and Vice-Chair shall serve for an initial term of two years, but shall be entitled to stand for re-election for a further period of two years: thereafter they shall not be entitled to seek nomination for re-election until a further period of two years has elapsed.

The role of the Forum Chair shall be to:

- i) chair Forum meetings impartially
- ii) to have an ordinary vote, plus a casting vote for use if required

- iii) approve Agendas and Decision Sheets in consultation with the Council
  - iv) take part in pre-meetings with the Council prior to Forum Meetings
  - v) act as spokesperson and signatory for the Forum re media, etc.
  - vi) moderate agreed Forum procedure for dealing with access disputes
  - vii) monitor Representatives' attendance record and act as necessary
  - viii) monitor the performance of the Forum
  - ix) monitor the Council's role in supporting the Forum
- and, in conjunction with the Council, to:
- x) monitor the performance of any supporting Working or Area-based Groups
  - xi) invite attendance by specific advisors at Forum Meetings when desired
  - xii) monitor the training needs of Forum Members.

The role of the Forum Vice-Chair shall be to:

- i) deputise for the Chair when necessary
- ii) assist with the Chair's responsibilities where appropriate
- iii) automatically become Acting Chair, should the Chair demit office early, and to continue as Acting Chair until the appointment of a new Chair and Vice-Chair at the end of the original 2-year term. Meanwhile, a replacement Vice-Chair shall be elected *pro tem*, according to the procedures in Appendix 4.

### 3.4 Working Groups

The Forum may designate Working Groups for the purposes of advising the Forum on topic-based access matters. Working Groups shall:-

- i) have a clear remit, terms of reference, and expected life-span.
- ii) comprise membership which may be from the Forum, the wider population, and/or specialist advisers.
- iii) report findings and outcomes to the Forum for approval or further action.

### 3.5 Area Groups

The Council, in consultation with the Forum, may designate Area Groups with the aim of taking forward Forum activities or disseminating information within designated parts of Aberdeenshire. Members of Area Groups may comprise representatives from existing area-based bodies or sub-groups, or may be appointed.

### 3.6 Advisors

The Forum may invite advisors to meetings in order to provide expert advice on specified issues which may arise.

### 3.7 Annual Gathering

A Gathering (or Gatherings) will be held annually, in conjunction with the Council, for the purposes of further informing and involving the public in the work of the Forum.

## **4.0 Proceedings of Forum Meetings**

### **4.1 Frequency of Meetings**

The Forum shall hold meetings no fewer than four times each year.

### **4.2 Quorum**

To be quorate, a minimum of 3 sectors must be represented, with a minimum of 8 Representatives (or deputising Reserves) present overall.

### **4.3 Failure to Attend Meetings**

Failure of a Representative to attend three consecutive meetings will result in the Chair writing to the Representative concerned and to fellow Representatives in their sector, in order to notify them of these absences. In the event of further non-attendance, and where the Forum is satisfied that there are no mitigating circumstances preventing attendance, the Representative shall be asked to resign from the Forum.

### **4.4 Disclosure of Personal Interests**

A Forum Representative who has a direct or indirect interest in any matter shall, at the outset of any meeting at which the matter is to be considered, disclose the nature of their interest to the meeting. Where the Representative has a direct interest in the matter (i.e. personal, financial, family, company or as employer/employee), then the Representative, if he or she considers it appropriate, should withdraw from the meeting during discussion of the matter, and shall not be permitted to vote thereon.

## **5.0 Administration of Meetings**

### **5.1 Standard Procedures**

The following shall be adopted as standard procedures for meetings of the Forum. In the event of dispute as to procedures, the standing orders of Aberdeenshire Council shall be applied.

- i) Members of the Forum may request inclusion of items for discussion in meeting agendas. Inclusion of items requested by other parties, including the Council, will be at the discretion of the Chair.
- ii) Agenda items will be agreed by the Chair in consultation with the relevant officers of Aberdeenshire Council.
- iii) If possible, decisions will be made through consensus; if consensus is not possible, then motions and amendments, duly moved and seconded, may be voted upon.
- iv) Minutes shall be kept of all meetings.
- v) A decision sheet will be issued to all Members within 7 days of Forum meetings.
- vi) Agendas and papers of meetings will be issued to Members, and made available to the public, at least five days in advance of the date of a meeting.

Aberdeenshire Council will be responsible for the provision of administrative support services, arranging or providing facilities for Forum meetings and, at its discretion, for meetings of Working Groups and Area Groups. Advice and assistance will be given where necessary by Council officers.

Proposed agenda items should be notified to the Council's Forum liaison officer no later than 28 days before the next meeting, subject to the proviso that items arising later and reasonably justifying early attention may be included at the discretion of the Chair or Acting Chair.

## 5.2 Standard Review Items

The following items of confirmation will be included in the agenda of a Forum meeting once a year (normally in February):

- i) the size and structure of the Forum
- ii) the normal annual number, venue and day of the week of Forum meetings
- iii) the communications methods employed by the Forum
- iv) the method of minuting meetings.

Should any item above be considered due for change or review, the Chair shall decide on the procedure to be followed thereafter, in accordance with this document as appropriate.

## 5.3 Open and Closed Sessions

Meetings shall be open to the public, except when it is deemed necessary for reasons of confidentiality to conduct a meeting or part thereof in closed session. Except where agreed by the Chair prior to the commencement of the meeting, and announced at that commencement, attendance by members of the public (including by Reserves who are not deputising for Representatives) will be in an observer capacity only.

Prior to a meeting, any Representative can request that an item, or part of an item, should be switched from the open session to the closed session of the meeting, or *vice versa*. This shall be permitted at the discretion of the Chair and Vice-Chair, in consultation with Council officers, and only in exceptional circumstances. Forum business which may be dealt with in closed session is likely to include business:-

- i) relating to policy advice to/from national or local government, or other public bodies or agencies, where there has been a request from such bodies that the item be considered in confidence
- ii) containing information which is the subject of legal proceedings, for example judicial review;
- iii) containing information which if publicly released would increase the likelihood of damage to the environment
- iv) containing commercial or confidential information not already in the public domain
- v) where confidentiality is required to protect the Forum's negotiating position on a strategy issue or casework, including dispute resolution

- vi) containing information provided to the Forum by a third party on a confidential basis, or personal information on an individual who has not given consent for disclosure
- vii) relating to individual Forum Members or individuals advising the Forum.

Papers relating to business discussed in closed session will not be issued to the public or press, will not be posted on the Council website, and will remain confidential after the meeting has taken place. The reason for any closed session will be noted on the meeting Minutes and on the Agenda if a closed session is known about in advance.

#### 5.4 Communications

The Forum, in consultation with the Council, shall determine what methods of communication it will employ to ensure that all of the information relating to the business of the Forum and Working Groups within the Forum is open and available to its Members, and, with the exception of records remaining confidential under closed business (see 5.4 above) or under Sections 3 and 5 of Appendix 4 (attached), to the public. Such methods may include press notices, leaflets, website maintenance, special meetings (e.g. the Annual Gathering), or attendance at external meetings to represent the Forum. The Council's Communications Team can be consulted where appropriate.

#### 5.5 Area and Working Groups

Area and Working Groups may operate autonomously and therefore under procedures different from the Forum. At their first meeting, such groups shall agree the procedures under which they shall operate.

### **6.0 Amendments to Operating Principles**

These Operating Principles may be amended at a Special Meeting called for that purpose, to which the Director of Infrastructure Services of Aberdeenshire Council shall be invited. A Special Meeting may be held on the same day as an ordinary Forum meeting but shall be convened separately from it.

The agenda for the Special Meeting shall set out the terms of any proposed changes, and shall detail both the reasons for, and likely effects of, the proposals. To be adopted, any proposed change must be approved by two-thirds of the total number of Representatives (or deputising Reserves) present. Once approved by the Forum, Aberdeenshire Council shall be given the opportunity to approve the amendments before they take effect.

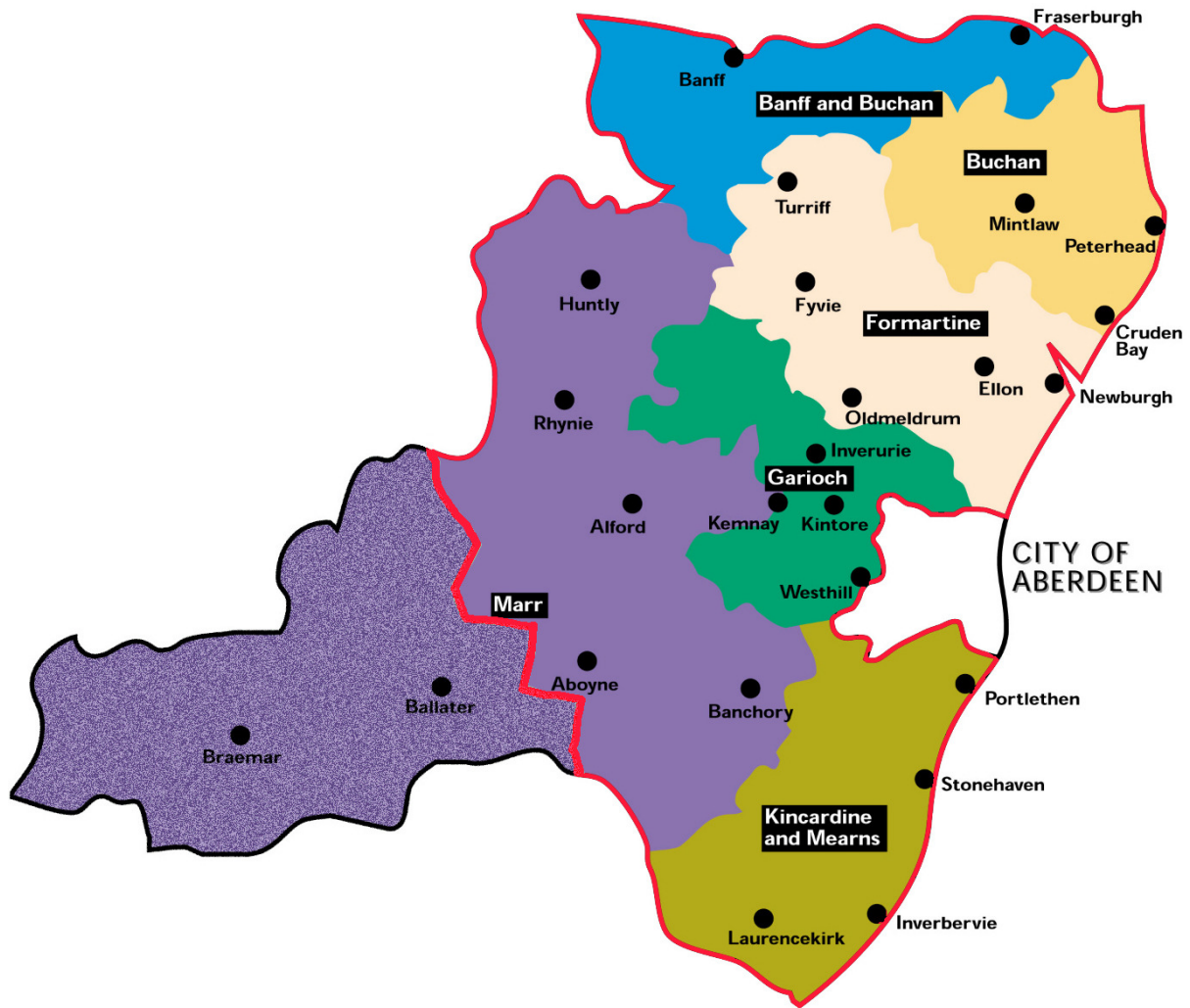
These Revised Operating Principles have been agreed by the Aberdeenshire Local Outdoor Access Forum on. (date) \_\_\_\_\_

Signed: (Alison Espie) Chair (Hamish Booth) Vice-Chair

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APPENDIX I



— Boundary of ALOAF area of operations

## **Aberdeenshire Local Outdoor Access Forum**

### **Appendix 2: PROCEDURE FOR THE RESOLUTION OF DISPUTES**

#### **1. Function of Forum**

The Forum is an impartial body set up under Section 25 of the Land Reform (Scotland) Act 2003 and is independent of Aberdeenshire Council. Under the Act, it has the function of offering to assist parties towards resolution of a dispute arising out of the exercise of access rights, the existence and delineation of rights of way, the drawing up and adoption of a plan for a system of core paths, or the use of core paths. The Forum may only become involved in the resolution of disputes if the parties involved agree, and its role is limited to that of mediator in trying to find a solution acceptable to both parties. It does not have the power to bind the parties; that can only be done by a Court of Law. But it would be disappointing if either party, having agreed to accept the assistance of the Forum, were to ignore the Forum's views, and parties to mediation will be asked to sign an undertaking to abide by any recommendations.

#### **2. Referral of dispute to the Forum**

If a dispute is referred to the Forum, or the Forum otherwise wishes to assist in the resolution of a dispute, the Chair of the Forum will as soon as practicable, and subject to consensus or vote, offer the assistance of the Forum to the parties unless it is thought inappropriate that the Forum should become involved. In offering the assistance of the Forum to resolve the dispute, the Chair will remind the parties of the Forum's role, namely that:-

- (a) it will propose constructive solutions, where possible;
- (b) it can offer an opinion only;
- (c) those opinions have no legal status, albeit that the Forum may obtain separate legal or professional advice from Council officers on issues raised in the dispute but shall not be bound so to do; and
- (d) unresolved disputes may need to be referred to the Courts for resolution.

The Chair will invite them to accept the offer of assistance in writing, and to undertake to abide by any recommendations. The Forum cannot assist unless all parties agree that it should do so.

Where Council access staff have been involved in trying to resolve the dispute before the matter is referred to the Forum, the Forum will treat the Council as a source of information and advice. Where the Council itself is regarded as one of the parties in dispute, the Forum will treat it accordingly.



### 3. Procedure

In order to examine a dispute, the Chair shall normally appoint a sub-group of 3 Forum Members, one from each of the Land Manager, Communities, and Access User sectors. The group will interview all parties separately and any other person who appears to the group to have relevant information and will make a site visit unless this is inappropriate. The sub-group may invite the Council to provide a member of staff to accompany it at interviews and on site visits, and/or to provide administrative services and/or technical (e.g. legal/financial) advice.

Details of the investigation by the Forum into any dispute will remain confidential to the Forum unless all parties agree to publication. Written notes will be kept of the procedure followed, and of the advice given by the Forum. These notes will be confidential to the Forum and will not be released to either party to the dispute, unless required by a Court of Law.

### 4. Relationship with Third Parties

In accordance with the Forum's status as an impartial body, any ALOAF member approached by a third party in connection with a dispute or access issue is advised to refer the matter for consideration by the Forum, without providing an opinion to the third party. Thereafter, the point of contact for the third party shall be the Forum itself, and not the individual ALOAF member approached in the first instance.

Should that member subsequently be appointed to a sub-group created to address the dispute, the member shall declare any previous contact, relevant to the matter in question, with any party to the dispute.

Where an opinion or advice has been given to a third party by any member of the Forum, prior to the issue being referred to the forum, this shall be taken into account in the appointment of a sub-group. Any such opinion or advice shall be regarded that of an individual rather than the forum.

All sub-group members shall maintain impartiality in respect of the case in question, while at the same time fulfilling their sectoral representation role within the Forum.

### 5. Recommendations

The sub-group will issue a draft of its proposed recommendations to all Members of the Forum for comment, and thereafter to all parties involved. The parties will be asked to make representations, if they wish to do so, within a period of 21 days. The Chair will thereafter issue the Forum's final recommendations to the parties involved, and to the relevant Council access staff.

Having issued its recommendations, the Forum will be willing to advise the parties on the implementation of its recommendations.

## **Aberdeenshire Local Outdoor Access Forum**

### **Appendix 3: PROCEDURE FOR ELECTION OF MEMBERS**

*(Note: in this paper, unless the context indicates otherwise, "the Council" means the relevant Council officer(s) servicing the Forum).*

1. Members shall be elected for a period of three years. At the end of any three-yearly term, Members may indicate that they are willing to put themselves forward for an additional period, up to an overall maximum of twelve years.
2. If a Member wishes to be considered for a further three-year period, they must inform the Chairman or Secretary, in writing, at least 6 months prior to the end of their three-year period, subject to the exception that instead of "6 months" agency or organisation representatives can give reasonable notice. Failure to follow this procedure will require any Member wishing to continue to follow the procedure for new Membership, as outlined in the paragraphs below. Any Member wishing to be considered for a further three-year period will be named at the penultimate meeting of their three-year term, and the Forum will vote to accept or reject this offer, a 75% majority being required for rejection.
3. In the event of a vacancy as a Representative or Reserve following any such voting in the paragraph immediately above, or otherwise, the Council shall instigate an advertising procedure (including use of its database of contacts, and contact with relevant Reserves in order to provide them with the opportunity to change from Reserve to Representative) calling for applications, making clear in what sectors of the Forum the vacancy or vacancies occur.
4. A minimum period of 6 weeks will occur between this information being distributed and the closing date for receipt of applications.
5. Should it be deemed that there are too many applicants to interview, then a sub-group comprising the Chair, Vice-Chair, one other Forum Member from any affected Sector(s) and an Access Officer will draw up a short list.
6. All short-listed applicants will be invited to the first convenient meeting of the Forum where they may make a short oral presentation. Forum members may, in return, question the applicants.
7. When all applicants have been heard, the Forum Representatives (or their deputising Reserves) present will vote on the applicants by way of a secret ballot.
8. The Returning Officer will be the senior Council Officer present.
9. In the case of a tie, voting will be repeated, this time only considering the tied applicants.
10. If voting for a Representative results in a vacancy amongst the Reserves, then remaining applicants will be invited to put themselves forward for this position. The voting procedure for Reserves will be as above.

## **Aberdeenshire Local Outdoor Access Forum**

### **Appendix 4: PROCEDURE FOR SELECTION OF CHAIR AND VICE-CHAIR**

*(Note: in this paper, unless the context indicates otherwise, "the Council" means the relevant Council officer(s) serving the Forum)*

1. Nomination and voting rights for Chair and Vice-Chair shall be available to Forum Representatives only (or, in their absence, their deputising Reserves). Voting *in absentia* or by proxy will not be permitted. Nomination (which may include self-nomination) shall be by written notification to the Council by an agreed deadline. Unless exceptional circumstances apply, candidates shall be present at the election meeting of the Forum, at which meeting nominees may make a brief verbal statement supporting their candidature.
2. Voting shall be by secret ballot, with a Council officer as the Returning Officer.
3. Where an election is held for both the positions of Chair and Vice-Chair; the candidate receiving the largest number of votes will secure the position of Chair and the candidate receiving the second-largest number of votes will secure the position of Vice-Chair. If the eligible Chair/Vice-Chair candidate declines the position the candidate with the second/third-largest number of votes will become eligible.
4. Where an election is held for either the position of Chair or Vice-Chair only; the candidate receiving the largest number of votes will secure the relevant position. If the eligible candidate declines the position the candidate with the second-largest number of votes will become eligible.
5. In any situation where a tied vote occurs, and if neither candidate is willing to step down, any remaining candidates will be eliminated and all voters shall be asked to re-cast their votes. Voters will only be given the opportunity to cast votes for the previously tied candidates; voters are permitted to abstain.