

MORAY LOCAL OUTDOOR ACCESS FORUM

PROCEDURE FOR THE RESOLUTION OF OUTDOOR ACCESS DISPUTES

ORIGINALLY PRODUCED 2006 – REVISED 2013, 2016

This note sets out the procedure which the Forum will adopt in the event of the parties to any dispute and/or the Council's Ranger/Access staff seeking to obtain the assistance of the Forum to resolve it. The Forum is an impartial body and independent of The Moray Council. The procedure is designed with that in mind.

1. Function of Forum

The Forum is given by the Land Reform (Scotland) Act 2003 the function of offering to assist parties to a dispute arising out of the exercise of access rights under the Act and/or the Scottish Outdoor Access Code towards resolution of the dispute. Disputes may arise between a Land Manager and an Access User; or between different classes of Access User or between the Council and a Land Manager. The Forum will only become involved once both parties have been informed. The Forum's role is limited to that of mediator in trying to find a mutually acceptable solution.

2. Reference of dispute to the Forum

If a dispute is referred to the Forum, or the Forum otherwise becomes aware of a dispute, the Convener will call on the Forum to formulate a recommendation unless they think it inappropriate that the Forum should become involved. In offering the assistance of the Forum to resolve the dispute the Convener will remind the parties of the Forum's role, namely that:

- (a) it will propose constructive solutions and recommendations, where possible,
- (b) it can offer an opinion only;

3. Procedure

Where possible the Moray Council Rangers/Access staff will initially try to resolve outdoor access disputes through a process of negotiation. In many cases a suitable solution will be reached acceptable to all interested parties without the matter requiring to be referred to the Access Forum. The Council Rangers/Access staff can on an ad hoc basis request the advice/involvement of a specific member or members of the Forum based on their relevant expertise, knowledge and background. The involvement of Forum members in this way may help to resolve the matter satisfactorily without the need for further deliberation by the whole Forum. Any such involvement by individual member(s) is not binding and is purely discretionary.

Where such resolution cannot be achieved by the Moray Council staff and/or the staff feel it to be advantageous to involve the Access Forum at an earlier stage the efforts to date on the matter will be reported to the Access Forum via the Convenor for deliberation subject to the agreement of all affected parties and the convenor. A written note should be submitted to the Convenor of the Forum by the appropriate ranger/access staff. On receiving all the information with regard to the said matter the Convenor can set-up a working sub group to further investigate one or a number of disputes. Any such working sub group will directly report in writing to at an appropriate meeting of the whole Forum for a recommendation. The working sub group may directly contact those involved in any dispute and may conduct site visits as required. The working sub group may require the input of the Moray Council's Access Manager. If technical advice, e.g. Legal, is required the working sub group, with the knowledge of the Convenor, can obtain such advice from Council employees, unless the Council is party to the dispute. Individual members of the public may contact the Forum through the web site or communicate directly to Forum members. Such contacts may request a ruling by the Forum on a particular access dispute. In such cases subject to the agreement of the Convenor a recommendation by the Forum will be sought at the next available meeting. The recommendation of the Forum will be reported back to all interested. When discussing the dispute in access at a working sub group and/or full Access Forum meeting this will be done in private but the final recommendations of the Forum will be publicised after all parties have been informed.

Should the Council be one of the disputed parties technical and legal advice will be sought from the Scottish Rights of Way and Access Society (ScotWays).

4. Resolution

The recommendation of the Forum will be sent to all parties involved. Having issued its recommendations, the Forum will be willing to further advise the parties on the implementation of its recommendations but will not enter into further discussion.

5. Recording

Written records will be kept of the procedure followed and the recommendation(s) given by the Forum. These records and other associated documents will be confidential to the Access Forum and the parties in dispute only. However the recommendation of the Access Forum will be publicly available within the general minutes of Forum meetings after all parties have been informed of the recommendation.