



**APPENDIX 2 TO THE STANDING ORDERS FOR MEETINGS OF THE PLANNING
& ACCESS COMMITTEE OF THE LOCH LOMOND & THE TROSSACHS
NATIONAL PARK AUTHORITY**

SCHEME OF DELEGATION RELATIVE TO:

IMPLEMENTING PART ONE OF THE LAND REFORM (SCOTLAND) ACT 2003

**DELEGATED POWERS TO ASSERT, PROTECT, KEEP OPEN, REPAIR AND
MAINTAIN PUBLIC RIGHTS OF WAY UNDER SECTIONS 45 AND 46 OF THE
COUNTRYSIDE (SCOTLAND) ACT 1967**

LOCH LOMOND & THE TROSSACHS NATIONAL PARK AUTHORITY

Approved 13th March 2017

LAND REFORM (SCOTLAND) ACT 2003

SCHEME OF OFFICER DELEGATION

PART 1: GENERAL REQUIREMENTS

1. This Scheme of Officer Delegation (“Scheme of Delegation”) is prepared in accordance with the provisions of Section 8 and Schedule 1 (Paragraph 17) of the National Parks (Scotland) Act 2000.
2. Loch Lomond and The Trossachs National Park Authority (the “Park Authority”) remains responsible for all the functions of the Park Authority. Notwithstanding the provisions of this Scheme of Delegation, the Park Authority may at any time determine any matter within the competence of the Park Authority either at the Park Authority’s own initiative or on the recommendation of an officer to whom the matter is delegated.
3. In exercising the delegated powers set out in Parts 2 and 3 below, the Director of Conservation and Visitor Operations and the Recreation, Access and Health Manager (or other appropriate officer(s) as determined by the Director of Conservation and Visitor Operations from time to time) shall observe the following general requirements:
 - a) all determinations shall be carried out in accordance with the provisions of the Land Reform (Scotland) Act 2003 (the “2003 Act”) after taking account of any national guidance including the Scottish Outdoor Access Code and the Guidance for Local Authorities and National Park Authorities under Part 1 of the 2003 Act;
 - b) no determination shall be made which conflicts with a decision made by the Park Authority Board or the Planning & Access Committee (the “Committee”) on a previous, similar application or enforcement matter in the same location unless there has been a material change in circumstances; and
 - c) all determinations made under this Scheme of Delegation shall be reported to the Committee Members for information.
4. In a number of the categories of delegation there is the need for a degree of judgement in interpretation on the part of Park Authority officers. As with all schemes of delegation this is unavoidable. Park Authority officers will use their professional discretion to determine which matters should best be considered by the Park Authority Board or the Committee. This Scheme of Delegation does not prevent a matter being determined by the Park Authority Board or the Committee even if the decision could otherwise be taken by a Park Authority officer.

PART 2: DELEGATED POWERS TO DETERMINE APPLICATIONS EXEMPTING LAND FROM ACCESS RIGHTS, UNDER SECTION 11 OF THE 2003 ACT

5. Section 11 access exemption requests for a period of 5 days or fewer will be normally be decided under delegated powers and the decisions will be notified in the Weekly Planning Schedule. However, Board Members will be afforded the opportunity to call for any application which is anticipated to be delegated to be considered by the Committee. Such a call-in must be exercised within 5 days of being informed about an application. In order for call-in to be exercised at least four Board Members must request that an application be referred to the Committee, and must give clear related reasons for doing so. Board Members should contact the Recreation, Access and Health Manager and the Governance and Legal Manager when making such requests. Park Authority officers will then consult with the Chair and Depute Chair of the Committee on whether an application should be referred to the Committee in light of the reasons given. The final decision on accepting applications will rest with the Chair or Depute Chair.
6. Authority is hereby delegated to the Director of Conservation and Visitor Operations and to the Recreation, Access and Health Manager under section 11 of the 2003 Act or other appropriate officer (as determined by the Director of Conservation and Visitor Operations from time to time) on behalf of the Park Authority. The decision would normally be taken in consultation and conjunction between the Director of Conservation and Visitor Operations and Recreation, Access and Health Manager, but in the event of holidays, illness or other absence, this Scheme of Delegation specifically authorises either officer or other appropriate officer determined to take the decision without recourse to the others, against the background that all relevant efforts will have been made to ensure proper consultation.
7. All applications will be determined (either approved or refused), subject to the general requirements of the operation of this Scheme of Delegation as outlined in Part 1.
8. Section 11 access exemption requests covering a period of 6 days or more will be advertised in the Weekly Planning Schedule. Such requests will be considered by the Committee who will make a recommendation to Minister. Decisions will be published in the Weekly Planning Schedule.

PART 3: DELEGATED POWERS TO UPHOLD ACCESS RIGHTS UNDER SECTIONS 13, 14, 15, 19, 21, 23, 24, 25 AND 26 OF THE 2003 ACT

9. The Park Authority is under a duty to uphold access rights under section 13 of the 2003 Act. Further specific powers are given in sections 13, 14, 15, 19, 21, 23, 24, 25 and 26 of the 2003 Act. Authority is hereby delegated to the Director of Conservation and Visitor Operations and to the Recreation, Access and Health Manager or other appropriate officer (as determined by the Director of Conservation and Visitor Operations from time to time) on behalf of the Park Authority to uphold, assert, protect and keep open and free routes from obstruction or encroachment any route, waterway or other means by which access rights may reasonably be exercised. The decision would normally be taken in consultation and conjunction between the Director of Conservation and Visitor Operations and Recreation, Access and Health Manager, but in the event of holidays, illness or other absence, this Scheme of Delegation specifically authorises either officer or other appropriate officer

determined to take the decision without the others, against the background that all relevant efforts will have been made to ensure proper consultation.

10. This does not prevent the decision being taken by the Board or the Committee either at the request of at least four Board Members or where a significant level of public objection has been received. 'Significant' will be defined narrowly and officer discretion in considering public objection will be exercised cautiously. Park Authority officers may also refer a decision to the Board to consider even without a Board Member request for call-in, or public objection, if it is agreed by the Recreation, Access and Health Manager and the Chair that it would be preferable for the issue to be determined by the Board or the Committee.
11. Authority is hereby delegated to the Director of Conservation and Visitor Operations and the Recreation, Access and Health Manager under section 25 of the 2003 Act in respect of the establishment, appointment and termination of membership to the Local Access Forum (the "Forum"), except insofar as that relates to the appointment of Board Members of the Park Authority to the Forum who are appointed by the Board.

PART 4: DELEGATED POWERS TO ASSERT, PROTECT, KEEP OPEN, REPAIR AND MAINTAIN PUBLIC RIGHTS OF WAY UNDER SECTIONS 45 AND 46 OF THE COUNTRYSIDE (SCOTLAND) ACT 1967

12. The Park Authority is required to: take such steps as it may deem expedient in order to assert, protect, keep open and free from obstruction or encroachment any public right of way which is wholly or partially within its area; and may repair and maintain any public right of way (except for a public road or a footway) within its area under section 46(1) and (2) of the Countryside (Scotland) Act 1967 (the "1967 Act"). The Park Authority may also receive applications for consent to erect and maintain guide posts and direction notices on any public right of way other than a public road pursuant to section 46(3) of the 1967 Act and applications from owners, tenants and occupiers of land which is being used or being brought into use for agriculture or forestry for the erection of stiles, gates or other works for preventing the ingress or egress of animals pursuant to section 45(1) of the 1967 Act. Authority is hereby delegated to the Director of Conservation and Visitor Operations and to the Recreation, Access and Health Manager or other appropriate officer (as determined by the Director of Conservation and Visitor Operations from time to time) on behalf of the Park Authority to take such steps or to grant such consent under section 46 of the 1967 Act. The decision would normally be taken in consultation and conjunction between the Director of Conservation and Visitor Operations and Recreation, Access and Health Manager, but in the event of holidays, illness or other absence, this Scheme of Delegation specifically authorises either officer or other appropriate officer to take the decision without the others, against the background that all relevant efforts will have been made to ensure proper consultation.
13. All applications will be determined (either approved or refused), subject to the general requirements of the operation of this Scheme of Delegation as outlined in Part 1 above.
14. This Scheme of Delegation may be varied or revoked by the Park Authority.