

National Park Authority Board Meeting

Agenda Item 6

National Park Byelaws - Schemes of Delegation



Paper for decision

1. Introduction

- 1.1. The Loch Lomond & The Trossachs National Park Authority has two sets of byelaws, established under respective pieces of legislation:
 - Loch Lomond & The Trossachs Camping Management Byelaws 2017, National Parks (Scotland) Act 2000; and
 - Loch Lomond Byelaws 2013, National Parks (Scotland) Act 2000, Land Reform (Scotland) Act 2003 and Civic Government (Scotland) Act 1982.
- 1.2. Each set of byelaws give the Park Authority powers which require delegation to officers in order to allow their practical operation. A Scheme of Delegation for each set of byelaws is presented in Appendix 1 and Appendix 2 respectively.
- 1.3. The Schemes of Delegation clearly define roles for all levels within the organisation, including the National Park Board, Chief Executive, Directors, Managers and Rangers.

2. Recommendation

- 2.1. Members are asked to **note** the content of this paper and **approve** the Schemes of Delegation in Appendix 1 and Appendix 2.

3. Scheme of Delegation for the Loch Lomond Byelaws 2013

- 3.1. The Loch Lomond Byelaws were introduced in 1996 by the former Loch Lomond Regional Park Authority. In 2002 Loch Lomond & The Trossachs National Park Authority became responsible for the byelaws, which were revised in 2007. A further review took place in 2012 and the revised Loch Lomond Byelaws were approved by Scottish Government Ministers in February 2013. These byelaws have been effective in their current form since 1st April 2013.
- 3.2. The Loch Lomond Byelaws 2013 (the 2013 Byelaws) are a mechanism by which the Park Authority manages the navigational use of Loch Lomond and some activities on its shores. The 2013 Byelaws are intended to enable the Park Authority to ensure that the Loch can be enjoyed safely and responsibly; and to prevent the things that make it special from being degraded or over-used.
- 3.3. As part of an overall review of Standing Orders and Terms of Reference for Board and Committee meetings, the Scheme of Delegation for the 2013 Byelaws has been

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reviewed and some amendments are required to bring it up to date and in line with current processes. The updated version of the Scheme of Delegation for the 2013 Byelaws is attached at Appendix 1.

- 3.4. The Scheme of Delegation is the means by which decisions regarding applications for the exemption from certain 2013 Byelaws are taken. The proposed changes outlined are to ensure that there is clarity and certainty in some aspects but are minor in nature.
- 3.5. The volume and nature of applications for exemptions has been routine and non-complex, relating to short term requests to hold events or provide training that require exemption from those byelaws governing speed or towing. The management of the 2013 Byelaws will continue to be a routine operational matter and it is anticipated that only in the exceptional circumstances of a large scale or complex issue might the matter be put to the Board for a decision.
- 3.6. The main changes to the Scheme of Delegation are as follows, shown by section below and in tracked changes in the document at Appendix 1:
 - 3.6.1. The Scheme of Delegation previously covered the East Loch Lomond Camping Byelaws 2011 and the Loch Lomond Byelaws 2006 in one document. The section relating to the East Loch Lomond Camping Byelaws 2011 has been removed and the Scheme of Delegation will only apply to the Loch Lomond Byelaws 2013, referred to as the 2013 Byelaws. The East Loch Lomond Byelaws 2011 will be replaced by the Loch Lomond & The Trossachs Camping Management Byelaws 2017 which are the subject of the other Scheme of Delegation proposed in this paper.
 - 3.6.2. All sections - job titles have been changed to reflect the current organisational structure and 'LLTNPA' has been changed throughout to 'Park Authority' for consistency as this is how we now refer to ourselves in official documents. For clarity following any reference to a section of the byelaws 'of the 2013 Byelaws' has been inserted.
 - 3.6.3. Part 1 – clarifies that officers will refer any matters of a particularly complex or significant nature to the Park Authority Board for determination. No matter has to date been referred by officers or requested by Members to be considered by the Board or a Committee in relation to these byelaws. This replaces previous references to referral of cases to Members for determination and the changes will help streamline the process to determine exemptions or grant permission to trade or operate a business on the shore.

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The weekly planning schedule will be used to notify decisions made by officers under the Scheme of Delegation.

3.6.4. Parts 2 to 4 - a new phrase has been inserted to clarify that in the absence of one of the named officers the Chief Executive can delegate others to make decisions following consultations. This will help manage any officer absence ensuring the operation of the exemptions process.

3.6.5. Part 5 – the same phrase as in Parts 2 to 4 has been inserted to deal with officer absence. Decisions to grant permission to trade or conduct business from the shore under Byelaw 3.13(1) are separate to any planning application process and any planning decisions. Some activities may require planning consent and permission under the 2013 Byelaws. Park Authority officers will consult with one another to determine if this is the case on an application by application basis. The consideration of an application under the 2013 Byelaws relates to whether or not an activity is suitable for the loch in the location proposed, in particular whether there would be any possible conflict with other water activities or conservation interests if the application was approved and what mitigation may be suitable to prevent this. Such activities may not fall under planning control, particularly where they are temporary in nature.

3.6.6. Part 6 - allows the Chief Executive to authorise officers to take steps to enforce the 2013 Byelaws by requesting the personal details of individuals and to sign off and submit documentation that may be required by the Crown Office to enforce the 2013 Byelaws.

4. Scheme of Delegation for the Loch Lomond & the Trossachs Camping Management Byelaws 2017

4.1. The Loch Lomond & The Trossachs Camping Management Byelaws 2017 (the 2017 Byelaws) were approved by Scottish Ministers in January 2016 and will be operational from 1st March 2017.

4.2. The Scheme of Delegation, attached at Appendix 2, sets out how the Park Authority intends to delegate decisions relating to the 2017 Byelaws to officers.

4.3. The delegation of powers under the Scheme of Delegation will enable officers to manage camping provision in areas where the 2017 Byelaws apply and operate a camping permit scheme in the Park; thereby implementing the Camping Development Strategy approved by the Board on the 24th October 2016.

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- 4.4. Part 3 provides the means by which authorised officers shall manage any exemptions to the 2017 Byelaws e.g. to permit camping within management zones via the proposed camping permit scheme. It will also allow authorised officers to specify the terms and conditions that apply to any exemptions and as such to make operational decisions relating to the capacity of permit areas. For example, it would enable officers to temporarily close permit areas if necessary to allow recovery of the ground following periods of high use or poor weather when ground conditions have deteriorated. Equally it will allow the numbers of permits issued in a permitted area to be adjusted upwards or downwards in the light of operational experience. This means that the permit scheme will be flexible and adaptable and allow for common sense adjustment in the wider context of the Park Authority's overall commitment to a minimum of 300 camping places and the approved Camping Development Strategy. The allocation of permits will also be reviewed as part of the annual review process.
- 4.5. This Scheme of Delegation follows the same format as other Schemes of Delegation used by the Park Authority for the delegation of decision making powers to officers and the powers of the Board to determine any matter at any time are expressly reserved. The management of the 2017 Byelaws will be a routine operational matter and, without prejudice to the Board's general decision-making powers, it is anticipated that only in the exceptional circumstances of a large scale or complex issue might the matter be put to the Board for a decision.
- 4.6. In making determinations under the Scheme of Delegation, Park Authority officers will use standard procedures as used in other Schemes of Delegation, for example the use of criteria to make assessments and recommendations.
- 4.7. The Scheme of Delegation will be reviewed annually or in the event of any changes to the 2017 Byelaws resulting from review processes. Operation of the 2017 Byelaws will be reported to the Board on an annual basis.
- 4.8. Part 4 of the Scheme of Delegation allows the Chief Executive to authorise officers to take steps to enforce the 2017 Byelaws in accordance with Byelaws 9 and 13. This means that relevant officers will be authorised to request the personal details of individuals and to sign off and submit documentation that may be required by the Crown Office to enforce the 2017 Byelaws. Relevant officers will also be authorised to require a person to leave a management zone when they have reasonable grounds for believing that an offence under the 2017 Byelaws has been committed.

5. Conclusion

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- 5.1. This paper proposes modifications to the Scheme of Delegation for the 2013 Byelaws that will ensure the Park Authority's governance arrangements remain up to date, efficient and transparent.
- 5.2. This paper also proposes a suitable Scheme of Delegation for the 2017 Byelaws that will enable implementation of the Camping Development Strategy approved by Board on 24th October 2016 and ensure the Park Authority's governance arrangements remain up to date, efficient and transparent.

List of Appendices:

1. Proposed Modified Scheme of Delegation for the Loch Lomond Byelaws 2013
2. Proposed Scheme of Delegation for the Loch Lomond & the Trossachs Camping Management Byelaws 2017

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