

# MINUTE OF THE ANNUAL GENERAL MEETING OF THE SCOTTISH RIGHTS OF WAY AND ACCESS SOCIETY

Held at the Dewars Centre, Perth,  
on Saturday 17<sup>th</sup> November 2018 at 1.30pm.

**Present:** Bob Aitken (Honorary Vice-President), Muriel Robertson (Chair), John Elliot (Vice-chair), 6 other Directors, plus 43 members and guests.

**In attendance:** Alison Riddell (Secretary and Treasurer), Eleisha Fahy (Senior Access Officer), Lynda Grant and Ashley Napier (Access Assistants), Karen Inkster (Development Officer), Richard Barron (Operations Director).

## 1. Apologies

Apologies were offered on behalf of Hugh Anderson, Jean Bisset, Gordon Dilworth, Jo and Richard Doake, Leslie Fraser, Craig and Caren Gilbert, Sandra Knight, Philip Lawson, Frederick Lees, Olga Macfadyen, Peter Mackay, George Menzies, Steve Murray, Ian Provan, Debbie and Andrew Ramage, Marion Shoard, Tim Simons, Liz Sutherland and Euan Terras.

The Chair, Muriel Robertson, welcomed everyone to the meeting.

## 2. Minute of AGM 2017

The draft minute had been posted on the Society's website and there were copies for those in attendance. Approval of the minutes was proposed by John Elliot, seconded by Peter Wood and carried unanimously.

## 3. To receive the Report of the Directors

Chair Muriel Robertson presented the Directors' Report in two parts, summarising the activities over the past year and giving an indication of the board's plans for the future. Much of the year had been occupied as usual with defending access rights, advising on and finding solutions to access problems. This activity could be broken down into four principal categories: legal searches, answering queries from members of the public, supporting and working with local authority access officers and updating route and signpost surveys to inform the rest of our work. She recognised that the level of activity stretched staff resources even before such one-off projects as ensuring GDPR compliance and researching the use of mediation in access disputes. She went on to express her heartfelt thanks to the committed, knowledgeable and enthusiastic staff for their work over the past year.

After summarising the principal activities of the year, Muriel highlighted the introduction of designated funds totalling £200,000 to the financial statements to increase accountability, explain in more detail how the Society intended to use its reserves and give confidence to donors that their funds would be well used. The largest figure was for office and information systems which are now rather dated and if the Society aspired to a campaigning role, there would be a need for reliable evidence of any claims that might be made. Much of the cost represented staff time: the staff team had been increased with the employment of Richard Barron on a fixed term contract for three days a week and Ashley Napier also on

a fixed term contract but replacing Craig Gilbert's part time position with a full time post. It also included updating the National Catalogue of Rights of Way and improving the office.

The provision for intellectual property included work in connection with the new law guide launched at the AGM. Muriel acknowledged the efforts of director John Elliot in particular in taking on the idea and bringing it to a conclusion on time and on budget. The intention was to revise and update the guide in 2021 so funds were designated for this. Directors also hoped to provide training in connection with it and to provide an updated brochure for the public.

The next heading of outdoor projects included signposting work, the small grants scheme and bridges. Muriel expressed her personal disappointment at the lack of applications to the small grants scheme and encouraged members to consider whether they were aware of anything that might be suitable.

With regard to bridges, she made mention of the success in matching an anonymous donor with the funding need in replacing the Sawmill Bridge on the Airlie estate. She commended director David Dixon in connection with his work sourcing funding to help replace the Carnoch bridge, and was delighted to report that the Quoich Bridge was now in place on the Mar Lodge estate and payment of £18,575 had been handed over for it from the Donald Bennet appeal. The National Trust for Scotland had agreed with the concerns expressed by David Greenslade, a ScotWays member who is a retired engineer, that the temporary bridge over the Derry Burn was not going to be secure for any length of time and they were intending to move it. As this would involve consultation that was likely to take some time yet, it had been agreed that the Society's involvement in this would come to an end. As a result, the Board were now looking how to use the remaining appeal funds in a meaningful way.

PR and campaigning formed the next heading. The opening ceremony for the new Quoich Bridge had had to be postponed until the Spring because of the weather but the National Trust for Scotland had agreed to work with the Society on publicity for our involvement in it. Good PR was recognised as important to raise the Society's profile and increase membership. In order to have a campaigning voice, good foundations would be required so the Board had engaged a PR consultant to help with this. It was hoped that we could build on it for the Society's 175<sup>th</sup> anniversary in 2020 with the aim of having a louder voice in 2021.

Muriel then went through the different stages of increasing the Society's profile, from empowering members of the public to campaign locally through supporting other organisations, demonstrating legal expertise and finally political aspiration.

She explained that the board was intending to work in smaller groups for greater efficiency. She hoped soon to appoint her successor to chair the finance committee. The operations team would look at the approach to information management and it was intended to re-energise the legal team. Access was of course core to the Society's business and this would involve both board and volunteer teams. The process of putting together such small groups would help

to define particular skillsets which might be needed for the board with a view to future recruitment.

Muriel concluded by thanking all those who contributed to the Society's work at all levels, staff and volunteers.

#### **4. To receive the Accounts**

A summary of the accounts had been published in the Annual Report, and full copies were available at the meeting as well as on the Society's website. The Treasurer, Alison Riddell, spoke to a number of slides providing a breakdown of the main figures in the accounts, pointing out that the surplus this year was rather lower than last year, particularly once restricted funds were excluded. This was not necessarily a bad thing as it could serve to demonstrate to OSCR that funds were being used rather than added to reserves. Membership income was fairly steady, but over the past few years the number of members lost had been significantly more than the number of new members acquired. As this was unsustainable in the long run, all those present were encouraged to invite friends and family to join.

The level of search income continued to increase and over the past year almost 1000 searches had come in. A new system was being introduced to facilitate monitoring of public searches but it had yet to reach the stage of producing useful statistics. In October, there had been 130 search enquiries, 90 from solicitors, 36 from members of the public and four from access officers.

Expenditure was broadly unchanged from the previous year. The final point was to draw attention to differences in the balance sheet from 2017 reflecting the investment of much of the cash reserves with Investec to provide protection against inflation and some income.

#### **5. To appoint Directors**

There were no directors standing for election this year, but John Pope had reached the end of his third three year term and was therefore standing down. Muriel Robertson, chair, thanked him for his nine years of service to the Society, particularly over recent years in connection with the A9 dualling project. She was delighted to report that he had agreed to become an Honorary Adviser to the Society so that we could continue to call on his expertise in this connection.

#### **6. To appoint George Menzies as an Honorary Vice-President**

Chair Muriel Robertson explained that although George Menzies had been appointed as an Honorary Vice-President by the acclaim of those attending last year's AGM, this was not in accordance with our articles of association so the proposal this year was to formalise the situation. John Pope proposed and Douglas Wright seconded the proposal which was then approved.

#### **7. To appoint the Independent Examiner of the Accounts**

Chair Muriel Robertson proposed the reappointment of Jamie Davidson of Henderson Loggie as Independent Examiner. This was proposed by Bob Aitken, seconded by Peter Wood and was then approved.

## 8. Any other competent business

Bob Aitken paid tribute to the contribution of Muriel Robertson as chair and John Mackay as honorary adviser.

## 9. The new Guide to the law of Access to land in Scotland.

John Elliot introduced members to the newly published ScotWays Guide to the Law of Access to Land in Scotland, describing it as accessible to the interested lay person but also useful to access professionals, solicitors and access officers. It was a collaborative venture and he acknowledged the tremendous contribution of Judith Lewis, far more than the indexing she had originally agreed to do. He described the publishers Birlinn as very helpful, thanked Richard Barron for the cover photo and of course Malcolm Combe, author of the text.

## 10. Recent legal cases

Malcolm Combe, author of the new law guide, provided a brief overview of access rights, both public rights of way and statutory access under the Land Reform (Scotland) Act 2003. He went on to refer to various older cases, including *Gloag v Perth & Kinross Council* and *Tuley v Highland Council* and spoke in more detail about the recent *Renyana Stahl Anstalt v Loch Lomond and the Trossachs National Park Authority* and *Manson v Midlothian Council*. He pointed out that these recent decisions have boosted the importance of the Scottish Outdoor Access Code and the necessity of heeding its guidance.

Questions were asked about commercial dog walking, with one person supposedly in control of 15 dogs (not responsible access if the dogs are not under control) and the use of drones, to which the Land Reform Act does not apply as a drone is an object rather than a person.

Malcolm also spoke about cases relating to rights of way and in particular the recent case in Aberdeen Sheriff Court relating to people accessing the harbour at Cove for fishing. He also referred to *BvC* in Forfar Sheriff Court where someone was seeking to use a public right of way for their private use.

A question was raised about turning the old Dundee railway route into a walking and cycle path despite one uncooperative landowner. This might be overcome if the route had been used continuously for over 20 years prior to the blockage as this could contribute to it being recognised as a public right of way.

## 11. Mediation in access cases

Eleisha Fahy spoke about her recent work investigating the potential use of mediation to resolve access cases which for various reasons are not going to court. There is a significant gap between action at an access authority level (Access Officers, Local Access Forums) and court action, and while court decisions provide useful precedents in interpreting the law, ScotWays would also like to see access disputes being resolved as easily as possible. She had been working with other recreational access bodies, particularly the Scottish Canoe Association (SCA), on alternative dispute resolution, and had met solicitors working in mediation and arbitration to find out more about the benefits and drawbacks of each.

On the basis of their research, ScotWays and SCA had submitted a paper to the National Access Forum which prompted some interesting questions. She had also met a representative of Scottish Land & Estates and was in the process of arranging a meeting with the Scottish Land Commission to discuss the use of

formal mediation. At this stage, the work was exploratory but was being very well received. She will provide an update next year.

### **12. Information Management**

Richard Barron spoke briefly about his work in looking at office systems, such as the National Catalogue of Rights of Way and the Heritage Paths database, which are now showing their age and investigating how best to bring them up to current standards.

### **13. Volunteer activity**

John Pope spoke about his work in connection with the A9 dualling project and how he, with office input, had worked to ensure that no right of way would be closed as a result of the dualling work. He had attended thirty meetings or exhibitions in connection with it, with Transport Scotland or local authority access officers. There were to be three crossings, one for walkers at Blair Atholl and two at Slochd village. The remaining issue to be resolved is the Birnam/Dunkeld junction where one option being considered is a 2.4km tunnel finishing at a roundabout. It was hoped that there would be a decision on this before Christmas but it is perhaps more likely to have to go to the Secretary of State.

John finished by saying that he was retiring as a director after nine and a half happy years. He thanked the staff for their work and wished the Society well – he had been in awe of its work since the 1950s.

The Secretary then thanked all those present for attending and drew the meeting to a close at 3.15 pm.

Proposed: asd }

xx/ 11/2019

Seconded: asd }

### **Outdoor Access in Scotland:**

The meeting was followed by a talk by Dougie Baird, CEO of the Outdoor Access Trust for Scotland.