

North Yorkshire Local Access Forum

10 April 2019

Draft Terms of Reference for North Yorkshire Local Access Forum**Report of the Secretary****1.0 Purpose of the Report**

- 1.1 To present some draft Terms of Reference for Forum members' consideration

2.0 Background

- 2.1 At a meeting held in July 2018 Forum members decided to carry out a review of the published LAF Principles and LAF Advice documents at their following meeting, under the heading of LAF Duties, and it was agreed both documents would be circulated to all members to consider in advance of that meeting.
- 2.2 Following the meeting, a number of examples of Local Access Forums Terms of Reference (ToR), in place elsewhere, were also circulated to all members as examples of best practice.
- 2.3 At a meeting in October 2018, following some discussion about the appropriateness of the existing documents, members agreed to the formation of a working group made up of Michael Bartholomew, Rachel Connolly & Paul Sherwood, to work together to revise the documents for consideration by the LAF at a future meeting.
- 2.4 It was reported at the last meeting of the Forum held in March 2019, that the Working Group had met to discuss a way forward but were unable to reach a consensus. In light of that, and taking account of the information provided at the training session held before the meeting, it was agreed the Secretary would draft some ToR for the North Yorkshire Local Access Forum, for the Forum's consideration at this meeting.

3.0 Draft Terms of Reference

- 3.1 The draft ToR are attached at Appendix 1 for members' consideration.
- 3.2 In anticipating the need for advice between NYLAF meetings, it is suggested that the Principles and Advice documents previously in place, now be used by the North Yorkshire Local Access Forum as a generic 'position statement' setting out advice on broad principles or key issues for use where appropriate – these are shown at Annex A to the ToR.

4.0 Recommendations

That the Local Access Forum consider the draft terms of Reference at Appendix 1 and agree any necessary amendments, before signing them off for implementation.

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Appendix 1 – Draft Terms of Reference

Draft Terms of Reference for the North Yorkshire Local Access Forum

The Local Access Forum for the county of North Yorkshire shall be known as the North Yorkshire Local Access Forum (herein referred to as 'NYLAF').

Local Access Forums (LAFs) are advisory bodies established under sections 94 and 95 of the Countryside and Rights of Way Act 2000 (CROW). LAFs are established by local highway authorities. North Yorkshire County Council is the Appointing Authority for the NYLAF (herein referred to as 'the Appointing Authority').

In 2007 Defra published the Local Access Forums (England) Regulations 2007 (herein referred to as 'the Regulations'). These came into force on 19th March 2007 with additional Guidance from the Secretary of State and form the basis of the Terms of Reference of the Local Access Forum for North Yorkshire.

1. Geographical Coverage

- 1.1 NYLAF covers the administrative county of North Yorkshire, including the Howardian Hills Area of Outstanding Natural Beauty, the Upper Nidderdale Area of Outstanding Natural Beauty and a small section of the Forest of Bowland Area of Outstanding Natural Beauty.
- 1.2 It excludes the area of the administrative unitary authority of the City of York, the North York Moors National Park & the Yorkshire Dales National Park.

2. Role

- 2.1 The primary purpose of the Forum is to provide advice to a range of organisations specified in the CROW Act 2000 and in supplementary regulations and guidance. Specifically to:

'advise its appointing authority and other specified bodies¹ as to the improvement of public access to land² in the area, for the purposes of open-air recreation and the enjoyment of the area, and as to such other matters as may be prescribed.

- 2.2 Where there is no demonstrable connection to land access, NYLAF should not proceed on a matter.
- 2.3 In carrying out its functions, a local access forum shall have regard to-
 - (a) the needs of land management,
 - (b) the desirability of conserving the natural beauty of the area for which it is established, including the flora, fauna and geological and physiographical features of the area, and
 - (c) guidance given from time to time by the Secretary of State. (94 (6)).

¹ Collectively known as 'Section 94(4) bodies: the Secretary of State, Highways England, Planning Inspectorate, Natural England, Forestry Commission, English Heritage, Sport England, Areas of Outstanding Natural Beauty, Parish Councils

² 'Land' includes land covered by water

2.4 NYLAF shall:

- i. Set its own priorities depending on local issues, as well as providing a local input to consultation and draft policy documents.
- ii. Provide advice to the Appointing Authority and other authorities on the improvement of public access to land within the County for the purpose of travel, open-air recreation and enjoyment of the area or any other lawful purpose.
- iii. Respond to consultations by Government Departments and Agencies on Access land registered common land and other open country.
- iv. Advise the Appointing Authority on the management of the Rights of Way network through the Improvement Plan for the County.
- v. Comment on the Appointing Authority's and other relevant local authorities' access strategies with a view to developing additional opportunities for people to enjoy access to the environment.
- vi. Seek representation on and offer advice to other bodies working to similar aims.
- vii. Advise Natural England on the operation of open access restrictions, management and mapping.
- viii. Advise on the promotion of opportunities for the appropriate use and enjoyment of the countryside.
- ix. Advise on the opportunities afforded to NYLAF through engagement with Local Nature Partnerships (LNPs) and Local Enterprise Partnerships (LEPs); and other matters relating to the provision of access and opportunities for the enjoyment of the natural environment.
- x. Seek opportunities to engage with managers of land to advise them of the opportunities available to promote and manage the provision of access including green spaces.

3. Responsibilities

- 3.1 In carrying out its function, NYLAF will have regard to biodiversity, wildlife management, the flora, fauna and geological and physiological features of the area and the needs and interests of landowners, land managers, user groups and the public at large.
- 3.2 NYLAF will respect local circumstances as well as environmental, social, economic and educational interests.
- 3.3 NYLAF will take into account statutory guidance issued by the Secretary of State whilst operating within the Countryside and Rights of Way Act and regulations made thereafter.

4. Funding

- 4.1 The Appointing Authority is responsible for the costs of running NYLAF. This includes paying for:
 - The provision of a secretary for NYLAF
 - Members expenses – travel, subsistence and child care

- The publication of NYLAF's annual report

5. Membership of NYLAF

- 5.1 NYLAF shall consist of a maximum of 13 members.
- 5.2 Based on a membership of 13, the maximum number of members of NYLAF who may also be members of a district or borough council or the Appointing Authority is two.
- 5.3 The process for the appointment of members should be fair and transparent, following the Appointing Authority's policies on social inclusion and diversity.
- 5.4 Members will be appointed for a period of three years - there is no limit to the number of times a member can be appointed.
- 5.5 In order to maintain some continuity of experience, recruitment will take place by thirds, on an annual basis.
- 5.6 Individual members will, through consultation, represent a field of interest rather than a particular organisation of which they might also be a member. A reasonable balance of members representing different interests should be maintained. These will be representative of:
- Users of rights of way and open access land
 - Owners and occupiers of land which has a public right of access
 - Any other interests especially relevant to the authority's area, such as tourism, nature and heritage conservation, coastal issues, health, public transport or community safety
- 5.7 A member may resign by notice in writing.
- 5.8 The Appointing Authority may terminate the appointment of a member it:
- a) Without consent they fail to attend meetings for a year; or
 - b) Fail to declare an interest they have in a matter to be considered by NYLAF; or
 - c) If the Appointing Authority is satisfied that they have become a member of a local authority in the area covered by NYLAF and as a result paragraph 5.2 has not been complied with.

6. Chair & Vice Chair

- 6.1 The Chair and Vice Chair will be drawn for NYLAF members. They will be elected by two ballots. Whenever possible the Chair and Vice Chair should represent different categories of interest. Members of the Appointing Authority will not be eligible for either position.
- 6.2 The appointment to these posts will be renewed on an annual basis. In the event that either post become vacant during the period of appointment. NYLAF may decide that both posts should be filled afresh. The total period during which a member may be Chair or Vice Chair will not exceed the period of their appointment as a member.

- 6.3 For the purposes of the election of officers NYLAFs year is deemed to be the calendar year and elections will be held at the first meeting each year.
- 6.4 Where neither the Chair nor Vice Chair are able to attend a meeting, NYLAF may choose to elect a Chair for the duration of that meeting only.

7. Meeting of the Forum

- 7.1 Meetings are to be held at least three times a year.
- 7.2 The meetings shall be deemed to be quorate when half the then membership or nine members are present, whichever is the smaller number.
- 7.3 Members who have a personal interest, whether direct or indirect, in a matter to be discussed by NYLAF should disclose that interest at the meeting. A personal interest is defined as one which might affect a member's wellbeing, financial position or business, or that of a relative or friend, to a greater extent than that of other inhabitants of the area. Personal interests will be recorded in the Minutes but will not necessarily prohibit that member from taking part in the discussion of that item.
- 7.4 Copies of the agenda for each meeting and any reports will be made available for inspection by the public at County Hall and on the Appointing Authority's website at least five clear working days before the meeting or as soon as possible if a meeting is convened at short notice.
- 7.5 The papers and minutes of each meeting will be made available for inspection by the public at County Hall and on the Appointing Authority's website for a period of two years after the meeting.
- 7.6 The Chair may, with the permission of NYLAF, vary the order of business to that set out on the agenda.
- 7.7 With the exception of voting for Chair or Vice Chair, voting shall be by show of hands and all decisions shall be decided by a majority of the Members present. In the event of an equality of votes the Chair may exercise a second or casting vote.

8. Public Access to Meetings

- 8.1 The meetings will be open to the public but people may be excluded if necessary to prevent disorderly conduct or misbehaviour.
- 8.2 Members of the public wishing to speak at the meeting must inform the Appointing Authority at least one working day before the meeting is held.
- 8.3 Observers may at the discretion of the Chair, attend and take part in the discussion but cannot vote or take part in decision-making.

9. Secretary

- 9.1 The Appointing Authority will nominate an officer to act as the interface with NYLAF and advise NYLAF, and fulfil the responsibilities of a secretary.
- 9.2 The Secretary will, in conjunction with the Chair, be responsible for the overall administration of NYLAF, including organising the meetings, drafting the minutes, producing the draft annual report and liaising with neighbouring Forums and the Appointing Authority.

10. Annual Report

- 10.1 NYLAF shall produce an annual report on its work which the Appointing Authority will publish and make available online.

11. Sub-groups and Working Groups

- 11.1 NYLAF may approve the creation of sub-groups and working groups (herein referred to as sub-groups) to assist with the work of NYLAF. Sub-groups will be created and/or disbanded at the first meeting of each calendar year depending on the potential work programme for the year.
- 11.2 The work of any sub-group will be to act in an advisory capacity to NYLAF. Its scope and work programme will be set by NYLAF.
- 11.3 Members of the sub-groups will be appointed at the start of each year or where appropriate at the start of a specific piece of work, as agreed by NYLAF. A sub-group may appoint a Chair only for the purposes of representing the sub-group at NYLAF meetings and administration.
- 11.4 NYLAF as an official body supersedes all work of the sub-groups.
- 11.5 Sub-groups meetings will be held informally without the need for a published agenda or minutes. A sub-group may produce a report of their meetings to NYLAF and all work undertaken by a sub-group must be approved at the NYLAF.
- 11.6 The administration and logistics of sub-groups will be arranged by the sub-group itself.

12. Communication

- 12.1 All communication received and sent by NYLAF must be noted and/or approved at a meeting of NYLAF. Correspondence having then been agreed, should be sent by the Chair or Secretary on behalf of NYLAF.
- 12.2 Individual members must not to present themselves as a NYLAF member when communicating their personal views, and may only present their personal views on issues where there is a public consultation.
- 12.3 The timing of requests for advice or consultations may not always correspond with NYLAF's meeting cycle. Liaison with the Appointing Authority in preparing the forward work programme and setting meeting dates should minimise this. NYLAF

may also anticipate the need for advice and plan ahead by developing (and keeping under review) a generic 'position statement' setting out advice on broad principles or key issues which can be used, when appropriate, for responding when advice is required between NYLAF meetings – see advice and principles at Annex A.

12.4 The Chair may discuss the handling of issues with other NYLAF members by telephone, email, social media etc. Depending on the importance of the issues raised the Chair may decide that:

- The issue should be added to the agenda of the next NYLAF meeting;
- Previous advice or a pre-agreed position statement provides adequate or interim advice.

12.5 In the event that communication as described on paragraph 12.3 is required, the Chair must seek general approval from other NYLAF members before sending any communication, and must take into account all interests of NYLAF as outlined in paragraph 4.5. Any communication sent in this manner must still be noted at a meeting of NYLAF.

12.6 Chairs of sub-groups may write to third parties on routine matters e.g. seeking information, booking venues, inviting guests, but must not offer the views of NYLAF.

NORTH YORKSHIRE LOCAL ACCESS FORUM

Local Access Forums perform a statutory function and all section 94(4) bodies are required under section 94(5) of the CROW Act 2000 to 'have regard in carrying out their functions to any relevant advice given to them' by a Forum. Reflecting the directives given to forums, the North Yorkshire LAF has drawn up a set of principles which now underpin their work and advice.

- Any new access should be at the highest rights practicable
- All rights of way should be maintained to the standard required and, where needed, upgraded physically and legally to a higher standard
- The Forum will work to see rights of way developed to redress the fragmentation of the network, connect communities and improve links to places of demand
- The Forum will work to develop more access opportunities to include the widest possible range of users, especially families, children, minority groups and the less able
- The Forum seeks the establishment of an annual budget to fund the fulfilling of the Rights of Way Improvement Plan (RoWIP)
- Whilst the creation of all access is welcome, the Forum stresses that permissive (temporary) access does not equate with the public benefit of definitive (permanent) access
- The Forum wishes to raise awareness of how different users can enjoy responsible sharing of routes where appropriate, whilst supporting challenges to illegal use
- The Forum recognises the establishment and challenges of new initiatives such as coastal access, access to water, access to woodland and the dedication of land for public access

The above may be summarised simply as:

The Forum seeks to maximise every opportunity for improved access, providing safer non-motorised journeys for the widest range of users practicable.

The Forum welcomes consultation from all section 94(4) bodies or others who feel they might benefit from discussion with them. For further information please contact the chair through the Secretary to the Forum - Melanie Carr, at North Yorkshire County Council either by telephone on 01609 533849 or by email at: melanie.carr1@northyorks.gov.uk

NORTH YORKSHIRE LOCAL ACCESS FORUM

Advice to District Councils as Sec.94 (4) bodies

Whilst each District will have different priorities within its Local Plan, the North Yorkshire Local Access Forum, in accordance with its statutory remit under sec. 94(5) of the CROW Act 2000, recommends the following points, which it hopes will be reflected by every District Council:

- The Forum advises that Good Practice in planning matters will incorporate connections for non-motorised users to local services and the rights of way network whenever possible. Such routes should be multi-user, if practicable, to encourage sustainable travel.
- That new sites provide informal as well as formal green space.
- That Local Plans reflect the objectives of NYCC's Rights of Way Improvement Plan and the Local Transport Plan.
- That Councils identify popular rights of way so they can put measures in places to enhance them and ensure their sustainability.
- That Councils seek opportunities to remedy missing links in a fragmented network to encourage healthy and sustainable travel.
- Councils should take advantage of Community Infrastructure Levy, Sec.106 arrangements, minerals tax and wind farm contribution to invest in initiatives and improvements for access.
- That Councils recognise the value of strong partnership with NYCC's rights of way department to promote the benefits accruing from a useful network of public paths.

These can be loosely summarised in the advice 'that all planning applications, should be considered from the Access point of view, to ensure opportunities for access are included'. Once missed, it is unlikely they can be added at a future date.

In addition, as Local Access Forums are directed to be inclusive in approach, which avoids discrimination and provides Best Value in access provision, we strongly advise that all new paths should be for the widest range of users, as in this way it encourages sustainable travel and supports safer and healthier journeys for as many as practicable.

The Forum welcomes engagement. Contact can either be made through your named LAF member or through the LAF Secretary - Melanie Carr, at North Yorkshire County Council either by telephone on 01609 533849 or by email at:

melanie.carr1@northyorks.gov.uk