

MEMORANDUM OF UNDERSTANDING BETWEEN THE FORESTRY COMMISSIONERS AND THE VERDERERS OF THE NEW FOREST

INTRODUCTION

1. In carrying out their statutory role as managers of the New Forest the Forestry Commissioners are constrained by the existence of rights of common. However, these rights are subject to the Forestry Commissioners' statutory powers. Under section 18(1)(c), (d) and (e) of the New Forest Act 1949 (as amended by the New Forest Act 1964), the Commissioners have power, amongst other things, to authorise the use of land in the New Forest for the purpose of recreation and the appropriation of land in the New Forest for car parking and for camping sites. They also have powers under section 23(2) of the Countryside Act 1968 to provide tourist, recreational or sporting facilities. The powers in the New Forest Act 1949 and, by virtue of section 1 of the New Forest Act 1970, those in the Countryside Act are only exercisable with the agreement of the Verderers of the New Forest.

2. In the context of the day-to-day management of the New Forest it is necessary to decide how particular activities or other items which the Forestry Commissioners propose to permit fall to be treated in the light of the legal rights and obligations described in the preceding paragraph. In particular, the parties have not always been able to agree whether particular items legally require the agreement of the Verderers. The purpose of this Memorandum of Understanding is therefore to set out the parties' intended approach in respect of specific items which the Forestry Commissioners are likely to wish to permit in the New Forest in the future.

3. This Memorandum of Understanding is not intended to constitute a legally enforceable contract or to create any rights or obligations which are legally enforceable. It is intended to be binding in honour only.

OPERATION AND REVIEW

4. This Memorandum of Understanding is expected to continue in operation unless it is brought to an end by either party in accordance with the following paragraph. The parties intend to formally review the provisions of the Memorandum after three years from the date of its signing but either party may propose an amendment at any time if they consider it necessary. Any changes to the Memorandum must be decided upon by both parties.

BRINGING THE MEMORANDUM TO AN END

5. Either party may bring this Memorandum of Understanding to an end by giving at least three months' notice in writing of its intention to do so to the other party.

NO LEGAL REQUIREMENT FOR CONSENT

6. The parties regard the items and activities listed in Schedule I as not requiring the agreement of the Verderers under section 18 of the New Forest Act 1949 (as amended by the New Forest Act 1964) or section 1 of the New Forest Act 1970 ("the New Forest Acts").

7. The Forestry Commissioners will notify the Verderers of their intention to permit any of the items or activities listed in Schedule IB and may seek the Verderers' comments and views in respect of such proposals.

LEGAL REQUIREMENT FOR CONSENT

8. The parties regard the items and activities listed in Schedule II as requiring the agreement of the Verderers under the New Forest Acts.

NO AGREEMENT ON REQUIREMENT FOR CONSENT

9. The parties have been unable to agree upon whether the items and activities listed in Schedule III require the agreement of the Verderers under the New Forest Acts.

Schedule IIIA

10. The Forestry Commissioners will seek the agreement of the Verderers to permit any of the items or activities listed in Schedule IIIA and the Verderers will not unreasonably refuse their consent to these items.

11. If the Verderers refuse consent to any item or activity listed in Schedule IIIA they will notify the Forestry Commissioners of the reasons for their decision and, if the Forestry Commissioners consider the Verderers' refusal of consent to be unreasonable, they will not proceed to permit the activity or item without first notifying the Verderers of their reasons for holding that opinion.

Schedule IIIB

12. The Forestry Commissioners will seek the advice of the Verderers in respect of the permitting of any of the items or activities listed in Schedule IIIB and will not unreasonably disregard any advice received.

13. In formulating their advice in respect of the items and activities listed in Schedule IIIB the Verderers will, as applicable, have regard to –

13.1 the scale of the item or activity, and/or the area affected and/or the time over which it occurs;

13.2 the proposed change to the current status of the item or activity as at the time the advice is sought;

13.3 the status of the item or activity as at the time the advice is sought as against its status at the date of this Memorandum of Understanding.

TRANSITIONAL PROVISIONS

14. The parties intend any decisions taken by the Verderers before the date of this Memorandum of Understanding in respect of any items or activities falling within its scope to continue to apply until there is a change in circumstance such as to justify reconsideration of that item or activity.

SIGNED: 
On behalf of the Forestry Commissioners

DATE 12th November 2002

SIGNED: 
On behalf of the Verderers of the New Forest

DATE 12th November 2002

SCHEDULE I

Items and activities regarded as not requiring consent

A

Items not to be notified

Sporting licences
Angling licences
Motoring permits
Individual carriage driving
Non-commercial and small scale commercial filming
Builders' temporary skips and material
Ranger led walks

B

Items to be notified

Fox-hunting
Backpacking
Duke of Edinburgh training
Sponsored walks, rides, map reading exercises
Dog training
Hawking
Bird watching from temporary hides (eg Montagu's Harrier)
Scouting and guiding activities
Military training
Scientific studies
Archaeology
Carriage driving events
Large scale commercial filming
Educational visits
School parties or organised events

SCHEDULE II

Items regarded as requiring consent

Car parks
Campsites
Reptile Centre
Open Forest recreation paths

Bar-B-Q sites
Information boards on fresh grass
Viewing platforms on fresh grass
Toilets
Classrooms
Marked trails on the Open Forest
Fixed seats on the Open Forest
Scout sites and buildings
Sports club buildings and associated infrastructure such as roads and tracks

SCHEDULE III

No agreement on requirement for consent

A

Consent not to be unreasonably withheld

Moveable benches and tables on the Open Forest
Cycle routes on the Open Forest
Horsedrawn wagon routes on the Open Forest
Sites for beehives
Ice-cream trading sites
Sports club activities

B

Advice not to be unreasonably disregarded

Donation meters
Notice boards
Viewing platforms
Litter bins
Horse-riding by commercial establishments
Draghunting
Orienteering
Motorised models and toys