

**Community Projects and
Activities on the
National Forest Estate:
A guide.**

Introduction

In 2013 an independent panel evaluated Forest Enterprise Scotland's (FES) work with local people and communities on the National Forest Estate. The panel found many areas of good practice, and that staff are keen to improve how they work with communities. However they had some concerns over system resources and processes. They made recommendations that we took on board.

This guide responds to one of their key recommendations, which was to publish refreshed guidance. It provides a framework for staff and community groups to discuss ambitions for projects on the National Forest Estate.

Whilst preparing this guide we have checked clarity and understanding with a community woodland sector focus group, and also with staff whose daily work involves community groups on the estate. We hope this will make sure this guide is both relevant and useful.

Looking ahead, we'll refine it based on user experience from real projects. In summer 2016, the Community Empowerment Act comes into the force which will shape this document in the future. For now, we're publishing this guide as a live test and welcome your feedback.

Record of amendments

| Feedback Received | Comments | Action |
|---|--|--|
| Scottish Government (Community Empowerment team) | - Amend title to better reflect guide as a tool for staff and community group | Title changed to "Communities and Activities on the National Forest Estate." |
| | - Three points to improve accuracy around the Community Empowerment Act | Changes made at relevant sections. |
| Feedback from Forest Districts | - The requirement for groups to plan for long term maintenance could be better emphasised. | Table at 3.1 amended. |
| | - The need to highlight when decisions points are reached by FES and for community groups to request reconsideration of decisions. | Part 2.2 amended Table 3.1 amended |
| | - Some additional examples of when a community group would require a permit. | Part 2.1 amended Table 3.1 amended |

Who should read this?

Forest Enterprise Scotland (FES) is the government agency responsible for managing Scotland's National Forest Estate. This guide is for communities who want to run activities, use or get involved in managing land or buildings FES looks after.

It describes:

- How to make an initial approach.
- How we'll discuss your idea and how we might help you achieve your goal.
- Advice on what you'll need in place to carry out your activities.
- The need to make sure your plans complement our goals, are funded and consider other forest users' interests.

If you not sure of which parts to focus on, ask the FES staff at your local district office <http://scotland.forestry.gov.uk/managing/who-manages/forest-districts>

PART 1: OUR COMMITMENT

1.1 What do we mean by community?

Communities can be groups of people in the same local area, or groups of people with a common interest.

NB: we recognise the rights of community bodies who want to submit an Asset Transfer Request for property we manage under the **Community Empowerment (Scotland) Act 2015**.

1.2 What's our commitment?

The Role of Scotland's National Forest Estate and strategic directions for 2013-2016 states: -

"We want to encourage local people to get involved with using and managing local Estate woodlands so we'll actively engage with local communities and be open to work in partnership," For more information please visit -

<http://scotland.forestry.gov.uk/managing/plans-and-strategies/national-forest-estate-strategy>

We'll do this by:

- a) Letting you have a say in our plans for the land we manage e.g. being consulted on our land management plans; *and*
- b) Helping you carry out activities on land we manage, to benefit your community and others, when we can.

We'll prioritise support for communities who:

- Are open to everyone and speak for their community;
- Represent a social group (e.g. defined in the Equalities Act 2010) whose use of the Estate is limited;
- Have projects that complement existing plans and activities; *or*
- Have plans that deliver a wide range of public benefits

We'll consider ways other groups can get involved, if it's in the **public interest** (refer to Annex 1) and will complement existing plans for the land we manage.

1.3 What can you expect from us?

We will:

- Be open and responsive in our work with you;
- Provide feedback and information quickly (within stated time frames); *and*
- Ask for your feedback to help us improve.

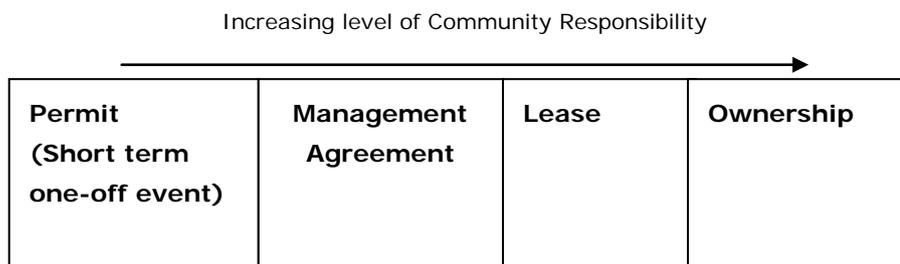
1.4 What do we expect from you?

We expect you to:

- Be open, clear and realistic about your plans and expectations;
- Tell us in advance of changes to your plans, or any issues you meet; *and*
- Carry out your activities on the Estate safely, with respect to other users (e.g. meet legal obligations such as health and safety and environmental protection).

1.5 How can we work with you?

The ways we can work with you are dependent on the overall responsibility the community group aspires to, and this will be reflected in the type of agreement we will enter into with you. We'll always try to accommodate your project. Sometimes we may need to withhold permission. When this happens we'll always give a full explanation and discuss it with you.



The information in this document covers activities that directly involve communities using or managing their local woods through permits and management agreements. Leases and Ownership are handled under the National Forest Land Scheme (NFLS) which is likely to be the subject of review in 2016.

Supporting delivery

To support this range of opportunities we will:

- Train and support our own staff to continue improving how we work with others;
and
- Work with other organisations to help make relevant advice and support available.

PART 2: GETTING INVOLVED

2.1 What activities are possible and do you need permission to carry them out on the National Forest Estate?

You have the right of responsible access on the land we manage so many activities don't need our formal permission whilst others do need to be notified or consent sought. The Scottish Outdoor Access Code (SOAC) (<http://www.outdooraccess-scotland.com/>) explains these in detail and outlines good practice. It also states what's not covered by that right:

"Access rights do not extend to:

- *Being on or crossing land for the purpose of doing anything which is an offence, such as theft, breach of the peace, nuisance, poaching, allowing a dog to worry livestock, dropping litter, polluting water or disturbing certain wild birds, animals and plants;*
- *Hunting, shooting or fishing;*
- *Any form of motorised recreation or passage (except by people with a disability using a vehicle or vessel adapted for their use);*
- *Anyone responsible for a dog which is not under proper control; or*
- *Anyone taking away anything from the land for a commercial purpose."*

The Scottish Natural Heritage publication ["Outdoor events in Scotland: guidance for organisers and land managers"](#) gives more advice on when you're likely to need permission to enter land. If you answer **yes**, to any of the following, you should contact us to discuss your plans. The criteria include:

- The event or project would need new or temporary facilities and services;
- The event or project is likely to unreasonably hinder land management operations;

-
- The event or project is likely to unreasonably interfere with the other people's enjoyment; *or*
 - The event or project is likely to unreasonably affect the environment.

Even when it's unlikely you'll need permission, we advise you discuss your plans with us as there may be other activities planned in the forest. The National Forest Estate hosts people with many interests, and planning ahead is crucial to avoid problems between groups competing to use the same forest. We do have 'master' agreements with some national organisations largely covering sports and events, where it is necessary to have agreement to conduct an event or activity. For more information please visit -

<http://scotland.forestry.gov.uk/managing/get-involved/permissions-and-permits>

If you require access to help plan your project and this is before we reach agreement a permit will be required. An example might be a feasibility study which may include vehicle access, or use of machinery. This can be arranged with your local forest district.

2.2 What you should know before getting involved in using or managing the National Forest Estate

Forest Enterprise Scotland has a legal and moral duty to make sure that those working on the land it manages, and those using the woods, do so in a safe environment. Our commitment is that:

"Everyone working with the Forest Enterprise remains safe and well and our woodlands are safe and enjoyable places to visit." – Forest Enterprise Scotland 2011

This means you'll need to make proper arrangements to manage and deliver your activity's health and safety issues. A useful publication that explains these responsibilities is "[Managing visitor safety in the countryside](#)". As a responsible land manager we'll need to know you can carry out your activity competently. For example, that could mean checking you have the right training, or if your event requires exclusive use to allow you to manage spectators safely, you will need to apply for closure of the area from the Local Authority (Also known as a section 11). Annex 2 lists other issues that you may need in place before your project starts.

We'll always try to accommodate your project. Sometimes we may need to withhold permission. When this happens we'll always give a full explanation and discuss it with you. If after this discussion the community group decides that there are grounds for a reconsideration of the outcome, the local district manager will discuss this with you.

Your local Forest District office can give you more information on anything covered above. <http://scotland.forestry.gov.uk/managing/who-manages/forest-districts>

2.4 What's the best way to discuss ideas with us?

After you've read this document, please get in touch with your local Forest District office to discuss your idea.

Straightforward activities: If your proposal doesn't need permission, or does, but is a one-off event, we may give you the go-ahead straight away. Otherwise if we've agreed specific terms and conditions, we might issue a formal permission to advance your plans.

More complex activities and projects: The table in Part 3, section 3.1, describes the steps involved in discussing plans for more complex or longer term activities.

2.5 Associated costs

As a public body we have to balance the cost of supporting your project with what we offer to Scotland's wider public, so we may need to recover partial costs through one-off or staged fees. For example, if you're planning a one-off short term event or project, and it can take place as part of your responsible access to the countryside (as set out in the Scottish Outdoor Access Code), it is unlikely that we'd need to recover any costs. However, if your project or event requires commitment of staff time, guaranteed access and exclusive use of a forest site at a specific time, then some form of cost recovery is likely. For more information on short term activities please visit;

<http://scotland.forestry.gov.uk/managing/get-involved/permissions-and-permits>

If your project is more complex and involves the transfer of some or all land management responsibilities, there are some costs you need to plan for covering. Associated costs would be advised on a case-by-case basis but could include Land Agency fees, map preparation, and 50% of valuation costs if ownership or lease of the forest is being considered. As an agency of the Scottish Government, Forest Enterprise Scotland is waiting for new guidance through the Community Empowerment (Scotland) Act 2015 due in summer 2016. As a guide to our current arrangements please refer to the National Forest Land Scheme; <http://scotland.forestry.gov.uk/supporting/strategy-policy-guidance/communities/national-forest-land-scheme-nfls>

PART 3: TAKING A PROJECT FORWARD

3.1 How to take a project forward

This table suggests the steps involved in discussing your idea in more detail.

| Actions | | | |
|--|---|--|---|
| <p>Step 1: Approach</p> | <table border="1"> <tr> <td style="vertical-align: top;"> <p>Community group:</p> <p>Read this document and associated guidance. Discuss and agree your plans with your members, and the wider community if needed. Consider the time your members have to commit in the longer term such as developing your project or running an activity. Including the potential legal responsibilities such as health and safety, ongoing maintenance, financial or planning approval if required.</p> </td> <td style="vertical-align: top;"> <p>FES:</p> <p>Respond to questions and provide relevant information and guidance.</p> </td> </tr> </table> | <p>Community group:</p> <p>Read this document and associated guidance. Discuss and agree your plans with your members, and the wider community if needed. Consider the time your members have to commit in the longer term such as developing your project or running an activity. Including the potential legal responsibilities such as health and safety, ongoing maintenance, financial or planning approval if required.</p> | <p>FES:</p> <p>Respond to questions and provide relevant information and guidance.</p> |
| <p>Community group:</p> <p>Read this document and associated guidance. Discuss and agree your plans with your members, and the wider community if needed. Consider the time your members have to commit in the longer term such as developing your project or running an activity. Including the potential legal responsibilities such as health and safety, ongoing maintenance, financial or planning approval if required.</p> | <p>FES:</p> <p>Respond to questions and provide relevant information and guidance.</p> | | |
| <p>Step 2: Discuss</p> | <table border="1"> <tr> <td style="vertical-align: top;"> <p>Community group:</p> <p>It would help if you could give us:</p> <p>a) A description of your organisation or community group (if we haven't worked with you before) and any relevant experience;</p> <p>b) A brief outline of what you want to do and where (e.g. area of the local forest etc.); <i>and</i></p> <p>c) Any comments or questions on the information provided in this document</p> </td> <td style="vertical-align: top;"> <p>FES:</p> <p>A member of your local Forest District will discuss your plans with you. They may reply to you via email depending on the complexity and scale of your idea.</p> <p><i>[Refer Annex 2 for a list of important issues you may need to consider depending on the nature of your project.]</i></p> </td> </tr> </table> | <p>Community group:</p> <p>It would help if you could give us:</p> <p>a) A description of your organisation or community group (if we haven't worked with you before) and any relevant experience;</p> <p>b) A brief outline of what you want to do and where (e.g. area of the local forest etc.); <i>and</i></p> <p>c) Any comments or questions on the information provided in this document</p> | <p>FES:</p> <p>A member of your local Forest District will discuss your plans with you. They may reply to you via email depending on the complexity and scale of your idea.</p> <p><i>[Refer Annex 2 for a list of important issues you may need to consider depending on the nature of your project.]</i></p> |
| <p>Community group:</p> <p>It would help if you could give us:</p> <p>a) A description of your organisation or community group (if we haven't worked with you before) and any relevant experience;</p> <p>b) A brief outline of what you want to do and where (e.g. area of the local forest etc.); <i>and</i></p> <p>c) Any comments or questions on the information provided in this document</p> | <p>FES:</p> <p>A member of your local Forest District will discuss your plans with you. They may reply to you via email depending on the complexity and scale of your idea.</p> <p><i>[Refer Annex 2 for a list of important issues you may need to consider depending on the nature of your project.]</i></p> | | |
| <p>Step 3: Reaching a decision</p> | <table border="1"> <tr> <td style="vertical-align: top;"> <p>Community group:</p> <p>Make sure you have access to the right professional advice. If you need access to undertake feasibility studies you will need to</p> </td> <td style="vertical-align: top;"> <p>FES:</p> <p>Will tell you how long a decision will take and how to take your proposal forward when</p> </td> </tr> </table> | <p>Community group:</p> <p>Make sure you have access to the right professional advice. If you need access to undertake feasibility studies you will need to</p> | <p>FES:</p> <p>Will tell you how long a decision will take and how to take your proposal forward when</p> |
| <p>Community group:</p> <p>Make sure you have access to the right professional advice. If you need access to undertake feasibility studies you will need to</p> | <p>FES:</p> <p>Will tell you how long a decision will take and how to take your proposal forward when</p> | | |

| Actions | |
|---|--|
| <p>arrange a permit from the local Forest District.</p> <p>Provide us with any added information required e.g. evidence of community consultation, feasibility studies, evidence that the group has the right skills and resources to manage and maintain the project Continue to keep your members informed.</p> | <p>we make one.</p> <p>The local district will issue a permit if access for feasibility studies is required as part of the planning phase.</p> <p>If the plans cannot be accommodated an explanation will be given and discussed with you. It is probable if the project has reached this point that it will be within the National Forest Land scheme. This contains mechanisms for extensions if the community group requires more time, and appeals if FES has not agreed to the project.</p> |
| <p>Step 4: Agreeing</p> <p>Community group:</p> <p>Agree responsibilities within your group and how decisions will be reached, including the role of specialist advisors who will attend meetings to discuss agreement.</p> <p>This is a key step as it sets out the responsibilities your group are undertaking. Good communication is vital. Sometimes plans are changed at this stage.</p> <p>Provide the required information to develop the draft agreement e.g. management plans and business plans. This may also include evidence that your activity can be carried out safely, the duration of the project, and arrangements on completion.</p> <p>Secure funding to cover your costs of finalising any agreement. (see 2.5 above)</p> | <p>FES:</p> <p>We'll recommend the form of agreement your activity needs. We'll provide your group with a draft Heads of Terms or template agreement.</p> <p>This is a key step as it sets out the responsibilities FES is undertaking. Good communication is vital. Sometimes plans are changed at this stage.</p> |
| <p>Step 5: Implement</p> <p>Community group:</p> <p>Provide the relevant information for FES to carry out checks as set out in the agreement.</p> | <p>FES:</p> <p>Attend review meetings with the community group and any extra management requirements as set out in the formal</p> |

| Actions | |
|---|--|
| <p>Secure, if required, the right consents for your project or activity e.g. planning permission, environmental surveys, closure orders, etc.</p> <p>Carry out your activity according to the agreed plan.</p> <p>Continue to liaise with FES staff before, during and after your activity, and attend review meetings with FES if this is needed and set out in the formal agreement.</p> | <p>agreement.</p> <p>Manage agreement, which will involve ensuring land management responsibilities are met, and competencies within the group are satisfactory</p> |
| <p>Community group:</p> <p>Review your project with group members, reaching a decision on its future. For example to close or to extend. Depending on the outcome of these discussions –</p> <p>Fulfil any agreed requirement after your project finishes, inform FES that your activity has finished. Give us feedback on how we could improve the process for the next time.</p> <p>Or, establish early contact with FES at an early date to discuss next steps.</p> | <p>FES:</p> <p>If the Community group would like extend their project commence dialogue to discuss and agree next steps</p> <p>Or on completion check your community group have fulfilled the completion arrangements as set out in the agreement and formally close the project.</p> |

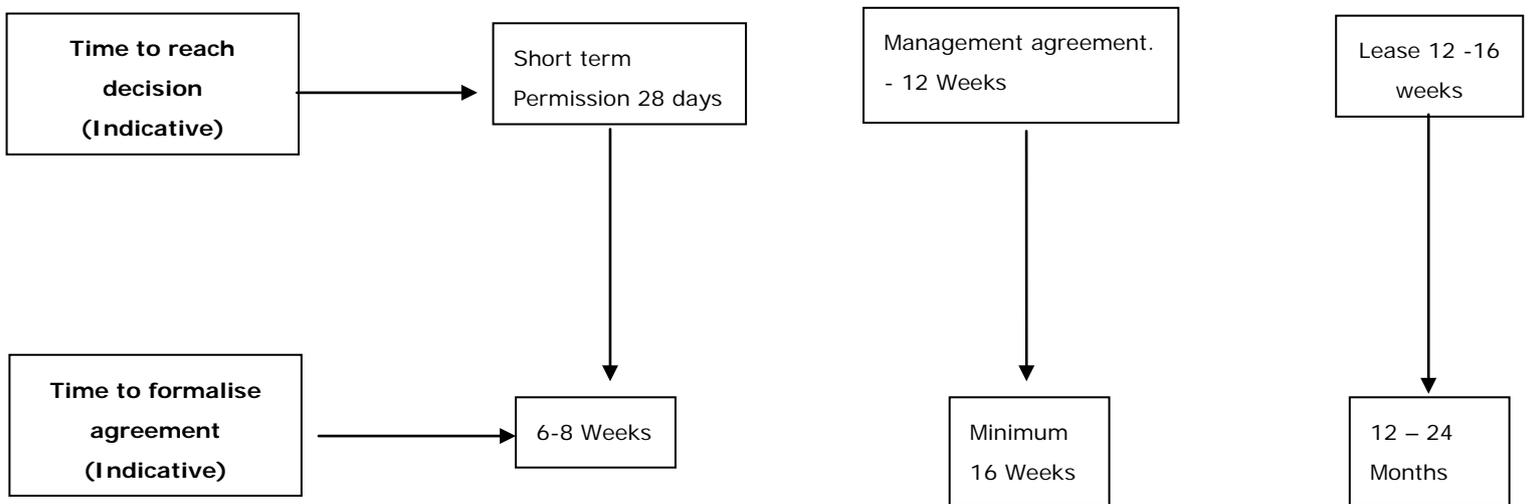
Step 6:
Review

3.3 How will we decide?

The time we take to decide varies by project type and scale. We'll tell you how long decisions are likely to take. The key criteria we use to consider projects are:

- Is the activity in the public interest (e.g. compatible with managing the wider estate and will not have a negative impact on other users); please also refer to annex 1, Public Interest.
- Can it be carried out safely and competently (e.g. compliance with legal responsibilities such as health and safety, environmental protection legislation and suitable management arrangements are in place.)

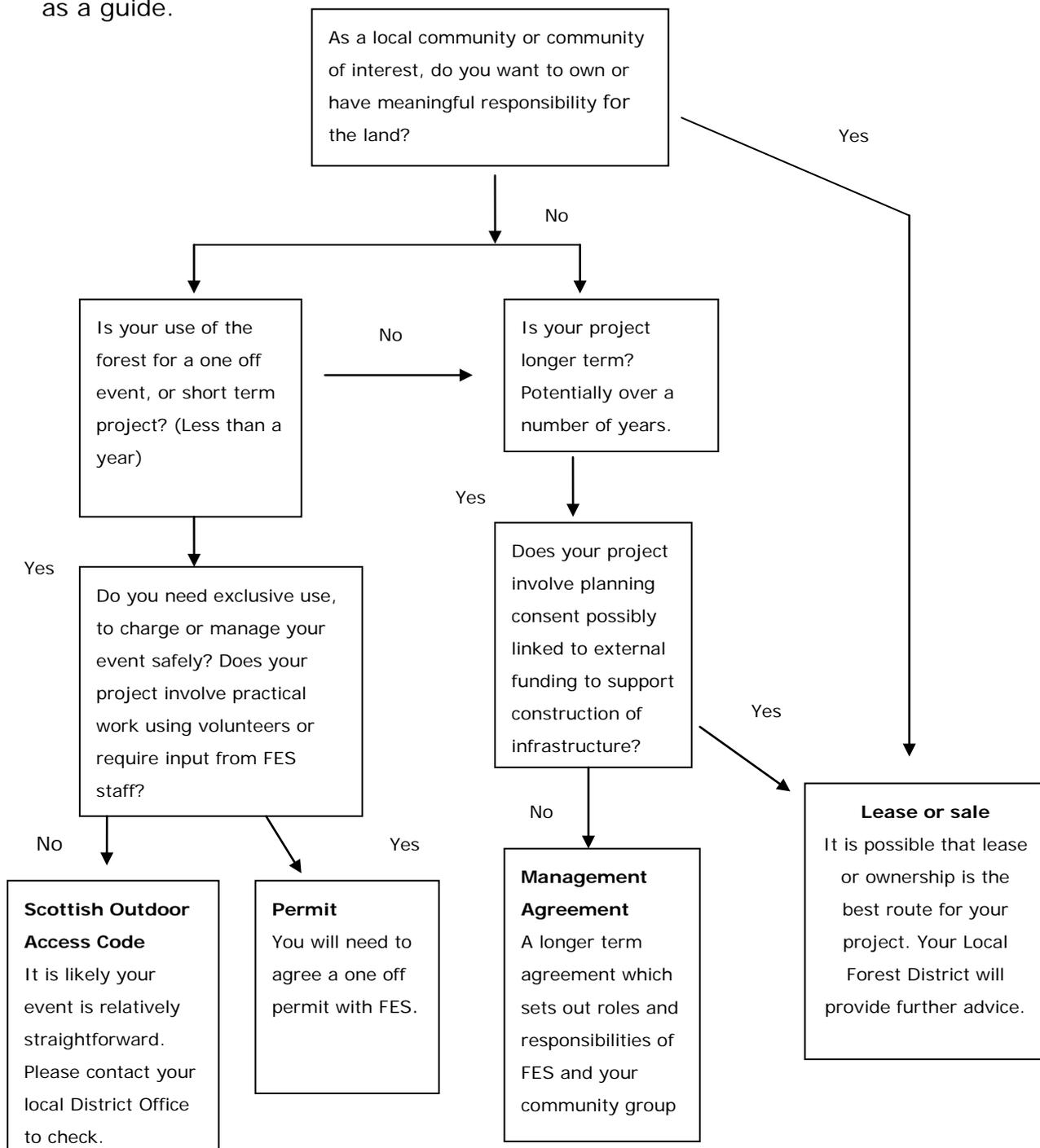
If we've made a decision to accommodate a project, we'll tell you what arrangements need to be made. This diagram gives an indication of timescales associated with making a decision and completing those arrangements:



Small scale and simple agreements can be concluded more quickly. Larger more complex projects can take more time

3.4 What arrangements are necessary to take a project forward?

The types of arrangements we recommend depend on the activity, the duration of the project, and if you want exclusive rights over a specific area of forest (Annex 3 describes these in more detail). We'll decide this on a case-by-case basis, and use this flow chart as a guide.



3.5 How we manage the agreements

We'll explain how we'll oversee any agreement and how we'll keep in touch during the project. We need you to inform us in advance of any changes you need to make to your plans.

Changes may mean we have to review and amend existing arrangements. For example, if you want alter or extend your project duration, or change the type of activity e.g. from one using hand tools to one using power tools.

It can take time to finalise details and in some cases they may not be compatible with the wider plans for the forest and surrounding land. We'll discuss this with you.

Each agreement will describe how to rectify issues and/or how to end the agreement if either party fails to meet the terms.

3.6 National Forest Land Scheme (NFLS)

If you're told the NFLS is the best route for your project you can find more information at www.forestry.gov.uk/nfls

3.7 How we measure our performance

We'll ask for regular feedback from you. We'll also carry out an independent survey every three years and publish the results.

ADDITIONAL INFORMATION

Annex 1: Public interest

Supporting projects in the public interest is one of our key criteria. This is decided on a case-by-case basis, as not all projects need to meet all criteria. The information below gives some examples of evidence you may be asked to provide to make sure your project is in the public interest.

- Your proposal provides added benefit to the public (e.g. supports Scottish Government and FES policies);
- Dependent on the activity and duration we may need to check the benefits aren't just for those in your organisation (including no opportunity for private gain) but are shared with the wider community;
- Your organisation won't benefit to the disadvantage of the wider community/public or wider environment or economy;
- Your proposal avoids a disproportionate level of harm to private interests; *and*
- You consulted the local community and have provided evidence from this in support of your project.

The public interest includes the interest of any sector of the public which we think would be affected by your project. This is to protect the interests of distinct communities and groups other than the community represented by the community organisation.

Annex 2: other issues that you'll need to consider

This table lists some other things you may need before your activity goes ahead. This includes activities which can go ahead under the Scottish Outdoor Access Code

| Issue | Comment |
|------------------------|--|
| Insurance | As a minimum requirement, you'll need Public Liability Insurance to run an activity, event or project on the National Forest Estate. The level of cover for any one incident will depend on the nature and level of risk associated with your event or project. |
| Risk Assessment | You'll need to undertake a risk assessment to make sure proper arrangements exist to manage health and safety issues, Forest Enterprise Scotland will provide information on any known hazards and constraints on the land to help with this assessment. |
| Opportunities for all | <p>As a public body we need to make sure our actions are don't discriminate and promote social inclusion. We'll need to see that your organisation is open to all people and your plans don't exclude anyone. Depending on your project this may include an equality assessment or evidence that protection for vulnerable people is in place.</p> <p><i>*We may consider exceptions to this. For example, where there's been funding to provide a programme/service to a particular community group. Exceptions can only be considered where evidence is provided on funding restrictions, and no other group is delivering the same programme/service in the local area.</i></p> |
| Community consultation | It's good practice to carry out community consultation when developing and delivering your project. For activities that may impact on local people and users, we'll need evidence that you've engaged those people as part of your planning. The amount of consultation will depend on the nature of your project. |
| Standards | FES staff will expect you to follow relevant industry best practice e.g. construction, design and maintenance legislation, inspection of facilities etc. |
| Skills and training | We need to be satisfied that you and your members are competent to carry out your project. This may require |

| Issue | Comment |
|---------------------|---|
| | <p>providing evidence certification of any training awards e.g. equipment handling, first aid certificate, disclosure Scotland information if working with children or vulnerable adults. We may also need to understand how you work to assure us that you can deliver the work safely, to agreed standards.</p> |
| Funding | <p>You will normally have responsibility to raise the money for the costs of developing, delivering and managing your project. You should think about how you'll fund the ongoing management and maintenance of your project including and any associated infrastructure beyond initial set up.</p> |
| Professional advice | <p>Seeking independent professional advice may be important when developing your ideas e.g. to understand if formal planning permission is needed. You may also need advice when discussing and finalising legal agreements with us to make sure you know the specific terms and conditions. We recommend you consult with a person, firm or company regulated by the Royal Institute of Chartered Surveyors www.rics.org.uk</p> |
| Exit Strategy | <p>In talks with FC, we will expect to understand your exit strategy. This will include timescales and outcomes that show when your project is likely to complete, or procedures to review the project. It will highlight any FC or community responsibilities needed to end the agreement. It will confirm what action FC will take if the community loses interest or if the agreement conditions are broken.</p> |

Annex 3: Extra information on the agreement types

This table provides more information on the relationship types mentioned, as a guide to which arrangement would suit your group's plans.

| Type of agreement | Duration | Best suited for | Level of responsibility for community group | Level of responsibility for FCS (as a land manager) |
|----------------------|---|--|---|--|
| Permit | A one-off activity, or series of events, with a clear start and end point. Usually for no more than a year. Can be extended by agreement | Activities are compatible with management aims of FES. Sporting events or one-off community related events are common under this type of arrangement. | Low/medium but dependant on activity type. Group responsible for health and safety but landowner retains a duty of care e.g. ensuring risk assessments are undertaken, and group is competent and carries insurance related to the activity | Low FCS will carry out limited checks to make sure the group is meeting the terms of the permission |
| Management agreement | Timescales agreed by both parties. But usually longer term involving a number of years. Agreement on end point or exit from the agreement crucial. Agreeing framework for reviews important and agreed methods for resolving disputes | Community Groups whose aims are compatible with FES plans. The role of each party would be agreed on a case-by-case basis. Possibly groups which are starting up, and where activities typically have a low risk and shared use of forest. | Medium/high Dependent on roles and responsibilities set out in management agreement. For example both parties likely to have a role in managing health and safety, and the community group would need to carry the correct level of insurance. | Medium/high Dependant on roles and responsibilities as set out in management agreement. |
| Partnership | Timescales agreed by parties involved in partnership. Could be long term or linked to a fixed-term funding | Projects where FCS has the resources to get directly involved in the project. Possibly working with | The level of community group responsibility will depend on their role within the | The level FES (and other agencies) responsibility will be depend on their role within the |

| Type of agreement | Duration | Best suited for | Level of responsibility for community group | Level of responsibility for FCS (as a land manager) |
|-------------------------------------|---|---|--|--|
| | package. | other agencies and community groups. A Partnership Agreement would typically be drawn up setting out roles and responsibilities of all involved. | partnership. | partnership. |
| Lease | Long term – Can be annual or decades. Represents a transfer of some rights that come with using or managing a public asset. | Where a group's plans require exclusive possession of an area of land, for example where planning permission and some form of infrastructure is an ambition, and/or where longer term tenure is needed to meet funder's criteria. | High Compliance with responsibilities as set out in lease terms. | Low Compliance with responsibilities as set out in lease terms. |
| Ownership (Sale of freehold) | A permanent transfer of ownership | Usually experienced groups with capacity. | Highest The group has full responsibility for meeting their legal obligations e.g. health and safety, planning regulations etc. | None (once sale completed) |