



**Draft Minutes from
Muirburn Code Review**

Steering Group meeting
held at

BASC Scottish HQ

Trochry, Dunkeld, Perthshire PH8 0DY

Tuesday, 15th March 2016

Attendance

Simon	Thorp	Director
Anne	Stoddart	Administrator
Michael	Bruce	Glentinar Estate
John	Gillies	Crofter, Raasay
Jonnie	Hall	NFUS
Alistair	Hamilton	SRUC
Gemma	Hopkinson	GWCT
Ronnie	Kippen	SGA
Richard	Luxmoore	NTS
Duncan	Orr-Ewing	RSPB

Colin	Shedden	BASC
Graham	Sullivan	SNH
Apologies:		
Tim	Baynes	SL&E
John	MacDonald	SFRS
Malcolm	Younger	RICS
Derek	Wilkie	SFRS

1 Welcome and Introduction

- 1.1 Members of the Steering Group were introduced and Colin Shedden was thanked for hosting the meeting.
- 1.2 The objective of the review is to produce a practitioner’s guide, and identify where additional work, which is beyond the scope of the existing contract, will be beneficial. It is critical to the success of the review that all stakeholders have an opportunity to provide input to the process.
- 1.3 This is commissioned work and funding is available for members of the Steering Group. Members will be informed of record keeping requirements.
Action: Director
- 1.4 The Scottish Government has commissioned this Review to update the Code and bring it into line with other guidance. There was some discussion about whether the instruction came from the civil service, the MSPs or the Minister for Environment. The issues are covered in more detail in the Appendix to these Minutes but in summary the Government is deemed to operate as a single unit.

c/o The Heather Trust, Newtonrigg, Holywood, DUMFRIES DG2 0RA

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Chairman: Lord Lindsay

Director: Simon Thorp

2 The Project Plan

- 2.1 The Project Plan was discussed and the following points raised:
- 2.1.1 The revised Code should refer to ‘minimum’ practice that is required in response to receiving payments from the public purse. It should also identify a variety of ‘good’ practices rather than attempt to state ‘best’ practice.
- 2.1.2 To get ‘buy-in’ the revised Code should become a simplified, modernised source of:
- Best / good / minimum standards
 - Advice
 - Incentives
 - Regulations
- 2.2 The final output will be a practitioner’s guide that will cover best practice techniques for muirburn & cutting, and identify opportunities for minimising the number of wildfires.
- 2.3 Presentation, layout and communication of the revised Code require careful consideration to make it relevant to all land managers and users, and to take into account different user needs including, for example different reading abilities & dyslexia.
- 2.4 Key ‘do’s and don’ts’ should be clearly presented – a list on the back cover will be considered. These should aim to identify the steps that are needed before deciding to light fires – in the form of ‘go / no-go’ checklist.
- 2.5 Burning should only take place where an assessment has shown that it will provide benefit. ‘Intelligent burning’ is required rather than burning as a matter of routine.
- 2.6 Definitions of Muirburn and Prescribed burning were provided and may need to be considered:
- 2.6.1 Muirburn: the fire is unbounded, it travels with the wind and is stopped by fuel breaks, tracks, increased moisture content etc.
- 2.6.2 Prescribed burning: occurs within a defined weather and environmental prescription, achieves land management objectives without unintended consequences and it is carried out to a plan prepared in advance.
- 2.7 A reading list will be compiled for the Steering Group. Not all of this will be relevant to all members but it will provide access to information that will help generate a common understanding amongst members of the Group. **Action: Glentnar, SRUC, SNH**
- 2.8 Academic, legislative and practical evidence to support the guide will be identified. Details of relevant research should be sent to SRUC for collation. **Action: SNH / SRUC / (JHI??)**

2.9 The legal status of the Code will be confirmed with the Scottish Government. How the Code relates to the civil law of negligence and insurance implications will also be considered. A single line reference to these topics might be adequate, especially if it can include details of where to find more information. **Action: SNH / Director**

2.10 Forestry

2.10.1 The lack of forestry representation on the Steering Group was commented on, especially as neglect of woodland boundaries has been identified as a key concern of ‘forestry neighbours’ wishing to carry out burning.

2.10.2 Forestry Commission Scotland is well represented on the Muirburn Group which will receive all the output from the Review, and

2.10.3 Michael Bruce is a member of Confor; he will approach the Chief Executive (Stuart Goodall) and suggest that he represent private forestry interests on the Steering Group. **Action: Glentanar**

2.11 Although beyond the scope of the current phase of work, when considering training requirements these should include different ignition techniques and risk assessment approaches.

2.12 The revised Code should address wildfire prevention, risk reduction and damage limitation. Muirburn should be linked to wildfire as a management tool but it was noted that some research indicates that 60% of wildfires start from escaped muirburn; this will be investigated further. **Action: Director, NTS**

2.13 Technical guidance (documents and videos) produced from the 2015 Wildfire Conference will be made available to the Steering Group. This will help to provide a common understanding from which to move forward. **Action: Glentanar / Director**

2.14 The challenge for the workshops planned for the next muirburn season will be to reflect the primary and secondary objectives, and the benefits of burning in practitioner terms.

2.15 The existing Code does not include a section on fire behaviour. This may need to be considered as Additional Guidance and could include definitions of fire intensity and severity and the effect on the fire of different proportions of grass and heather involved in agricultural, gamekeeping and conservation contexts.

3 The Steering Group conference call on 26th February

3.1 The Minutes from the Steering Group conference call were accepted and are available to view on the website.

4 Plan of Action

4.1 The Milestones are detailed in the Project Plan. The submission of the first draft of the revised code is due on 31 May 2016, and this forms Milestone 2.

- 4.2 The revised Code will be aimed at basic knowledge and responsibility levels.
- 4.2.1 It was agreed that illustrations were preferable to, and are likely to be clearer than, photographs.
- 4.2.2 The Eurofire material guidance provides an excellent example of this and it was likely that access to, and use of, this material would be allowed. **Action: Glentanar / Director**
- 4.2.3 Some photographs will be required and the search for clear images should start soon.
- 4.3 The following information should be considered for inclusion:
- 4.3.1 Burning Season dates on the front cover.
- 4.3.2 Reference to statutory and civil law.
- 4.3.3 Templates to cover a burning plan, and a muirburn plan
- 4.3.4 An introductory checklist to aid the initial decision ‘to burn or not to burn’.
- 4.3.5 Appendix containing fuel types and characteristics, for example: heather, grass, shrub, peatland.
- 4.4 Additional in-depth information will be made available online, although some of this is beyond the scope of the current contract. This should include peatland, grazing, fire danger rating system (FDRS), engagement and knowledge exchange and research. There is likely to be some cross-over with the work being carried out for the Principles of Moorland Management project.
- 4.4.1 Several external contributors for this were suggested including Clifton Bain (IUCN), Alan Gray (CEH), Rebecca Artz (JHI), Andrew McBride (SNH)
- 4.5 Drafting
- 4.5.1 The existing Code will provide the starting point for drafting the revised Code. The existing text will be restructured to form an outline version of the revised Code. This will allow the identification of parts that require amendment to be identified and sections where additional text is needed. The results of this exercise will be circulated to the Steering Group. **Action: Director**
- 4.5.2 It was agreed that separate groups should take responsibility for initial drafts of certain areas of the code. Volunteers were as follows:
- **Peatland:** Michael Bruce and Alastair Hamilton would lead and produce a framework for presentation to the Steering Group. Reference may be made to Alan Gray (CEH) and an SNH representative (to be recommended by Graham Sullivan).

Duncan Orr-Ewing would approach Pat Thompson about providing support.

- **Grazing:** Tony Waterhouse (SRUC) would be approached about leading. Volunteers to support were: John Gillies, Davy McCracken and Richard Luxmoore.
- **Fire Behaviour:** Michael Bruce volunteered to develop some ideas.

4.6 The following opportunities for engagement with stakeholders were identified and records would be kept of what went out where:

4.6.1 Production of a flier for game fair, shows and conferences,

4.6.2 Standard presentations that can be adapted to be given at events,

4.6.3 Advice from LANTRA on their training programme,

4.6.4 Briefing for RPID staff (details of the seminar series will sought – **Action: Director**)

4.6.5 Webinar

4.7 Workshops

4.7.1 Four locations will be required. Initial thinking was to start west & north in October and consider holding a final workshop in central Scotland in March, and possibly use this session to provide an overview of the revised Code and its application.

4.7.2 All were asked to consider locations to hold the workshops.

5 AoB

5.1 The Director requested a copy of the 1976 Muirburn Code for reference. **Action: SNH**

6 Dates of Next Meetings

6.1 The following meeting dates were proposed:

Proposed Steering Group Dates from the Project Plan	
3. Review first draft of the Code - conference call	13 May 16
4. Review final version of the Code – conf call	5 Aug 16
5. Review feedback from events and recommend revisions to draft revised Code – conf call	10 Mar 17

6.2 A doodle poll will be issued to agree dates. **Action: Administrator**

The Role of the Scottish Government

The instruction for the Review came from Susie Turpie, as the representative of the Scottish Government. This appendix considers the justification for the Review and then the accountability of Government.

JUSTIFICATION

The decision to review the Code arose from discussions during the development of the muirburn provisions of the WANE Act.

Extract from the WANE Bill consultation document

“The need for a future review of the Muirburn Code

The Muirburn Code provides guidance for those making muirburn, sets out the types and areas of land which are suitable for making muirburn and identifies those areas which are unsuitable, such as exposed peat hags and gullies. The Code is supported by ' Prescribed Burning on Moorland. A Supplement to The Muirburn Code: A Guide to Best Practice', a technical support document.

Land managers must follow the latest edition of the Muirburn Code in order to claim Single Farm Payment, under cross compliance (GAEC) requirements. While the Code itself is not legally binding, it is an integral part of the regulatory framework and complements legislation. The Scottish Government's preferred approach is to regulate through legislation as a last resort when it is not possible to address issues through the Muirburn Code and cross-compliance, or where this has not proved effective.

A number of stakeholders have commented that the existing Code is out of date and needs to be modernised, for example to:

- *Include increased reference to soil, peat and wildlife protection,*
- *Be more user friendly,*
- *Remove inconsistencies,*
- *Bring the Code up to date in the light of practical experience and new research findings, and*
- *Reflect any changes to muirburn legislation.”*

The consultation analysis report

The report (<http://www.gov.scot/resource/doc/311885/0098449.pdf>) includes the following the relevant bits of text:

“The consultation also sought views on the need to review the Muirburn Code... There was majority support for updating or reviewing the Muirburn Code... It will be necessary to update the Muirburn Code to reflect the above proposals that will be progressed in legislation – this will present an opportunity to consider a wider review of the Code.”

GOVERNMENT ACCOUNTABILITY

There is an established principle that there are no parts of Government in the UK. The acts of government departmental officials are synonymous with the actions of the minister in charge of that department. Therefore, the views of civil servants and Ministers are one and the same. For more detail see [The Carltona doctrine](#).