



The Sir Arthur Grant Centre

Terms and Conditions of Hire

Jan 2024

FINAL

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1 Interpretation

1.1 The following definitions apply:

Application Form: the form completed by the Hirer and submitted to the Council to request hire of the Premises.

Contract: the terms and conditions of this hire agreement, including any documents incorporated or referred to within it.

Council Staff: any individual (for example janitors, caretakers, Duty Officers etc) employed by the Council.

Council: Aberdeenshire Council, a local authority constituted by the Local Government etc (Scotland) Act 1994 and having its principal offices at Woodhill House, Westburn Road, Aberdeen, AB16 5GB

Customer Welcome Pack: the document issued to Hirers upon arrival at the Premises.

Deposit: the amount (as a proportion of the Hire Fee) notified by the Council to the Hirer within the Quotation which shall be paid by the Hirer in order to secure the booking.

Estate: the Monymusk Estate.

Hire Fee: the charges payable by the Hirer for the hire of the Premises, as agreed following receipt of the Application Form.

Hire Period: the period of time agreed for the hire of the Premises as agreed between the Parties to include any period of time to set up and clear the Premises.

Hirer: the person or organisation who has submitted an Application Form to hire or use facilities.

Lead Booker: an individual who has been designated as the Hirer's main agent for the Hire-Period

Parties: the Council and the Hirer as defined in the Contract.

Premises: the Sir Arthur Grant Outdoor Centre, Dalbraidie, Inverurie AB51 7JA

Quotation: the notice sent by the Council to the Hirer upon receipt of an Application Form detailing the Hire Fee and any Deposit due.

- 1.2 Any words following the **terms including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
 - 1.3 Any reference to **writing or written** includes email.
 - 1.4 **Failure to comply with the Contract may result in the withdrawal of the booking and loss of any charges already paid.**
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2 Booking Arrangements

- 2.1 Any application for the use of the Premises should be made to the Council using the Application Form. The Premises and any part of them shall not be used without the Council's prior authorisation.
- 2.2 **Bookings will only be confirmed once the Hire Fee is paid in full, or the Deposit due is paid, whichever is applicable as defined in the Quotation. All bookings will be deemed provisional until said payments are made. Subject to Clause 2.6, any Deposit paid by the Hirer is non-refundable.**
- 2.3 The Council reserves the right to inspect appropriate documents and procedures in relation to the application, such as national governing body affiliation, insurances, financial accounts and constitutional documents of the Hirer.
- 2.4 **In the event the Hirer needs to cancel their booking, they shall give at least 28 days' written notice to the Council. Failure to do this will result in the full payment being charged. Where the Hirer provides 28 days' notice to cancel a booking in accordance with this Clause 2.4, the Council will retain the Deposit and any other sums due paid.**
- 2.5 The Council may cancel the booking with immediate effect by giving the Hirer notice in writing if:
- a. the Hirer fails to pay any sums due under the Contract;
 - b. the Hirer commits a material breach of any term of the Contract;
 - c. the Hirer suspends or ceases, carrying out their activities;
 - d. the Hirer is unable to perform its obligations in accordance with the terms of Clause 5 of the Contract, as determined by the Council acting reasonably.
- 2.6 **In circumstances where the Premises becomes unavailable for the Hire Period, the Council will provide 7 days' notice of this to the Hirer, or, in cases of extreme emergency, notice will be given as soon as is practically possible. In such cases the Council will make every effort to provide suitable alternative arrangements and where this is not possible the booking will be cancelled, and any sums paid refunded.**
- 2.7 Subject to the terms of the Contract, including this Clause 2, the Council grants the Hirer a right for the Hire Period to enter and use the Premises in accordance with the Contract. The Hirer acknowledges that:
- a. the Hirer shall have the right to enter and use the Premises as a licensee only and no relationship of a landlord and tenant is created between the Council and Hirer by this agreement; and
 - b. the Council retains control, possession and management of the Premises and the Hirer has no right to exclude the Council from the Premises. The Council reserves the right to enter the Premises at all times during the Hire Period.
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3 Use of Premises & Equipment

- 3.1 The Hirer's activities at the Premises must be confined to the times and areas approved on the Application Form.
 - 3.2 Premises and Council equipment will be provided on the understanding that they are used appropriately by the Hirer. All Council equipment required must be requested on the Application Form by the Hirer.
 - 3.3 Hirers using their own specialist equipment at the Premises should only do so if there is a person authorised and suitably qualified to supervise the use of such equipment.
 - 3.4 The use of some Council equipment may incur additional charges. The Council reserve the right to withdraw Council equipment from use for safety reasons.
 - 3.5 When hire of the Premises is authorised, the Hirer will be responsible for the activities carried out on the Premises. The Hirer shall ensure that there is an appropriately qualified and experienced person present at all times during the Hire Period.
 - 3.6 Any Hirer using the Premises must ensure their guests observe the procedures laid down in the Customer Welcome Pack which will be made available in hard copy at the Premises and sent to the Hirer in advance of the Hire Period.
 - 3.7 The Hirer shall not transfer, assign or sub-let any part of the Premises or Council equipment hired.
 - 3.8 Portable electrical equipment may only be used on the Premises if it has no electrical defects which could constitute a safety hazard.
 - 3.9 The Council will not be liable for any damage, injury or loss of property brought to or left in the Premises by guests using the Premises.
 - 3.10 Car parking facilities are available for guests and vehicles may be left at the Premises overnight at guests' own risk. The Council will not be liable for any damage or loss to vehicles left at the Premises or otherwise on the Estate.
 - 3.11 Council Staff on duty shall inform the Hirer and Lead Booker of any uncontrolled hazards which may pose a risk to guests using facilities, and which may not be readily identifiable e.g. damaged flooring, construction works, blocked access routes.
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4 Emergency Procedures

- 4.1 The Lead Booker shall be appointed by the Hirer as the competent and responsible person who will be present and in charge during the Hire Period. The Lead Booker must be familiar with the terms of the Contract and all emergency procedures relating to the Premises.
- 4.2 The Lead Booker will familiarise themselves with the fire procedures relating to the Premises and take appropriate action in the event of a fire alarm, whether real or practice, occurring during the Hire Period. Details of fire procedures can be obtained from Council Staff and the Hirer should request these in advance of the booking.
- 4.3 The Lead Booker should be aware of the nearest telephone and have an operational mobile phone in case of emergencies.
- 4.4 The Lead Booker will be responsible for communicating to the group information regarding fire safety procedures and any other emergency procedures.
- 4.5 If the Hirer needs to move furniture from rooms at the Premises, the Hirer shall store any moved furniture in a locked room at the Premises if one is available. If it is necessary for the Hirer to store furniture in open areas or corridors at the Premises during the Hire Period, then a passageway of at least five feet wide must be maintained to allow clear exit from the building. All furniture should be returned to its original position before the end of the Hire Period.

5 Hirer's Obligations

- 5.1 The Hirer shall ensure that all members of the Hirer's organisation and group using the Premises behave in a responsible and safe manner at the Premises, and the Council reserves the right to remove, or request that the Hirer remove, any member of their organisation and group that do not do so from the Premises.
 - 5.2 The Hirer agrees and undertakes:
 - a. not to do or permit to be done anything on the Premises which is illegal, or which may be or become a nuisance (whether actionable or not), annoyance, inconvenience or disturbance to the Council or to any other customers of the Council, or any owner or occupier of neighbouring property;
 - b. to comply (and ensure members of its group and organisation comply) with the Contract and any written instructions or notices from the Council, and use reasonable efforts to ensure that any other persons present during the Hire Period also comply;
 - c. to ensure that adequate first aid facilities and first aid qualified personnel are available throughout the Hire Period.
 - d. to ensure that members of its group and organisation are suitably qualified and authorised in line any regulatory requirements for their role;
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- e. to ensure that there is sufficient supervision of its activities, where instruction or coaching is taking place and the Council reserve the right to request information on qualifications of those involved;
- f. to comply with any applicable regulatory requirements for the work of their organisation;
- g. to indemnify the Council for any damage done to the building, furnishings, fittings or other contents of Premises during the Hire Period.
- h. not to cause or permit to be caused any damage to the Premises, including any furnishings, equipment or fixtures;
- i. not to smoke or permit smoking (including e-cigarettes) anywhere on the Premises;
- j. not to fix any bolts, nails, tacks, screws, adhesives, tape or other such fixing devices to the walls or fabric of the Premises without the prior written consent of the Council;
- k. not to display any advertisement, signboards, flag, banner, placard, poster, signs or notices at the Premises without the prior written consent of the Council;
- l. not to alter, move or interfere with any lighting, heating, power, cabling or other electrical fittings or appliances at the Premises, or install or use additional heating, power, cabling or other electronic fittings or appliances without the prior written consent of the Council;
- m. to use any Council equipment provided by the Council, as specified in the Hire Details, for its proper purpose and in accordance with any written instructions provided by the Council regarding its use; and
- n. to leave the Premises in a clean and tidy condition and to remove the Hirer's decorations, displays and any of their equipment from the Premises at the end of the Hire Period and to turn off lights and heaters prior to securing the building if there is no facility staff present to close the building.

6 Liability

- 6.1 The Hirer shall maintain in force with reputable insurers throughout the Hire Period, sufficient insurance cover in respect of the Hirer's liabilities and risks arising from their use of the Premises.
 - 6.2 The limits on liability in this Clause 6 apply to all liabilities arising in connection with the Contract including liability in contract, delict (including negligence), misrepresentation, restitution, deliberate fault or otherwise.
 - 6.3 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
 - a. death or personal injury caused by negligence; and
 - b. fraud or fraudulent misrepresentation.
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- 6.4 Subject to clause 6.3, the Council shall not be liable for damage or theft of any property of the Hirer or from members of the Hirer's organisation or group, or other guests of invitees to the Premises, unless and then only to the extent that such damage or theft arises from the negligence of the Council.
- 6.5 Subject to clause 6.2 and clause 6.4, both Parties' liability to each other under the Contract shall be limited as follows:
- 6.5.1 The maximum aggregate liability of a Party in relation to physical damage to property and the Premises caused by that Party shall be £20,000.
- 6.5.2 In respect of all other claims, losses or damages, whether arising from delict (including negligence), breach of Contract or otherwise, the maximum aggregate liability of a Party shall be the value of the Hire Fee.
- 6.6 Subject to clause 6.2 and clause 6.4, clause 6.6 specifies the types of losses that are excluded. The types of loss wholly excluded are:
- a. loss of profits
 - b. loss of sales or business;
 - c. loss of agreements or contracts;
 - d. loss of anticipated savings;
 - e. loss of use or corruption of software, data or information;
 - f. loss of or damage to goodwill; and
 - g. indirect or consequential loss.
- 6.7 If the Hirer intends to make a claim in connection with this Contract, it shall notify the Council within 12 months of the date on which the Hirer became, or ought reasonably to have become, aware of an incident believed to give rise to the claim. The notice must be in writing and must identify the incident and the grounds for the claim in reasonable detail.

7 Alcohol on ECS Premises

Whenever it is proposed to provide or directly/indirectly sell alcohol, this must be clearly stated on the application and is subject to appropriate authorisation from Council Staff within the Education and Childrens Services team. Where an alcohol license is required, it is the Hirer who is responsible for obtaining it and must comply at all times with conditions of license issued by the Licensing Board.

8 Smoking

Smoking is prohibited in all Council premises. This includes grounds/car parks as well as buildings. The Hirer and all members of its group and organisation are required to adhere to The Smoking, Health and Social Care (Scotland) Act 2005 and The Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006. Failure to comply with the law is a criminal offence. Individuals may be fined a fixed penalty of £50 for smoking on no smoking premises. The Lead Booker of any group using no smoking premises could also be fined a fixed penalty of £200 for allowing others to smoke in no smoking premises.

9 Photography

The use of cameras, videos and other equipment with the capacity to photograph is permitted provided the Hirer has obtained the appropriate consent from members of its group and organisation using the Premises.

10 Pets

- 10.1 Where any guest wishes to bring dogs, the Hirer must obtain consent from Council Staff. Where the Council provides its consent to dogs being brought to the Premises, the Hirer and members of its group and organisation are limited to bringing a maximum of two dogs per group.
- 10.2 The Hirer and members of its group and organisation owning the pets are responsible for them and must clean up after them.
- 10.3 All dogs must be kept on a leash at all times while exercising on any part of the Estate and kept well away from badger sets and other sensitive locations.

11 Performances or Copyright Licenses

The Hirer shall be responsible for securing any licenses required for the performances or copyright work. The council will not be liable for any damages and expenses claimed by any person or company as a consequence of the performance of copyright work for which the hirer did not obtain a license from the Performing Rights Society or any other appropriate licensing body. Where any hire involves the sale of goods or public entertainment, the hirer is responsible for ensuring that the correct license, if required, is obtained.

For more information, please contact 03456 081208 and ask for Licensing.

12 Services of Council Staff

- 12.1 It is for the Council to determine whether the services of Council Staff are required on site during the Hire Period and, if so, whether they are merely required to open and close the Premises or, whether they should be present throughout the Hire Period.
- 12.2 Where services of Council Staff are required throughout the Hire Period, Council Staff will be on the Premises fifteen minutes before the hire begins until fifteen minutes after it finishes.

13 Data protection

- 13.1 Parties shall comply with the requirements of all applicable data protection and privacy legislation in force from time to time in the UK including (i) UK GDPR; (ii) the Data Protection Act 2018; and (iii) all other Law concerning the processing of personal data and privacy, including the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) all as the same are amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 and the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2020.

14 General

- 14.1 **Force majeure:** Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control.
- 14.2 A print of the Contract will be available at the Premises.
- 14.3 The Council may at any time, for reasons deemed by them sufficient, suspend, alter or withdraw any or all of the terms of the Contract.
- 14.4 Where a Hirer is dissatisfied with the charge or category or charge being levied for the hire of the Premises, the Council's Complaints Procedure should be followed: [Have Your Say guide and complaints process - Aberdeenshire Council](#).

15 Assignation and other dealings

- 15.1 The Hirer shall not assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract without the Council's prior written consent.
- 15.2 The Council may at any time assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights under the Contract.
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16 Waiver

- 16.1 A waiver of any right or remedy under this Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 16.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy under this Contract shall not waive that or any other right or remedy, nor shall it prevent or restrict the future exercise of that or any other right or remedy.

17 Severance

- 17.1 If any provision or part-provision of the Contract are or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 17.1 shall not affect the validity and enforceability of the rest of the Contract.

18 Third party rights

The Contract does not give rise to any rights of third parties under the Contract (Third Party Rights) (Scotland) Act 2017 to enforce any term of the agreement.

19 Governing law.

The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with the law of Scotland.

20 Jurisdiction

Each party irrevocably agrees that the courts of Scotland shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.
