

## **National Access Forum Sub-Group: Mountain Biking and Enduro Activity**

**Minutes from the third meeting: Wednesday 18<sup>th</sup> April 2018**

### **In Attendance -**

David Henderson Howat (Chair)  
Janice Winning (NAFsec)  
Graeme McLean (Scottish Cycling)  
John Ireland - Health and Safety Policy and Development (FES),  
Mike Brady (S Lanarkshire Council)  
Karen Ramoo (SLE)  
Angus Duncan (Falkirk Council/LAs)  
Helena Mauchlen (BHS)

**Apologies** – Kevin Lafferty (FCS), David Clyne (Cairngorms National Park), Simon Pilpel (S Lanarkshire/ LAFs), Paul Timms (CTC ), Jamie Smart (NFUS), Alan Macpherson (SNH).

### **AGENDA**

#### **1. Minutes of the last meeting and matters arising**

The minutes from the second meeting on 12 December 2017 were approved. All action points had been discharged with the revised guidance documents on the agenda. The merits of including Duriss Forest Aberdeenshire, as a case study, where facilities for mountain biking are being broadened to include multiuse activities, were discussed. The 'Knock' at Crieff and Laggan Wolftrax were also suggested as a possible case studies.

#### **2. Guidance Document - Guide to User Built Mountain Bike Trails**

The sub group welcomed all the work that had been made to date on the draft documents. The following comments were made during discussion:

##### **i) Draft Structure**

- agreement that the introduction should make it clearer who the guidance is aimed at,
- support for signposting guidance that exists already and reinforcing these messages including the SOAC.
- glossary of terms to be included as an annex
- 'flow chart of decision making' section to come before the 'models for managing...'
- building guidelines would focus on certain key principles of good design and refer to detailed guidance elsewhere
- consideration of land management operations was identified as a key section,
- reference to 'other users' was currently missing from this section,
- cases studies to potentially include examples identified at the start of the meeting,
- Ellies bridge should read Emmy's bridge

##### **ii) MTB and Land Management Models**

- the wording within the two draft MTB and Land Management models still lacked clarity eg definitions of short term versus long term, informal versus formal, temporary versus permanent,
- there was likely to be a spectrum of agreements ranging from the short term/ informal to the longer term contractual agreements,
- this spectrum could be illustrated using a sliding scale rather than through columns,
- the emphasis of shared ownership for monitoring and maintaining trails should be stronger,
- the level of involvement by the landowner is likely to depend on level of use and level of acceptable behavior,

- links to examples and templates (eg risk assessment and signage) would be helpful,
- guidance on management models that falls somewhere between the two examples was probably the ideal.

**iii) Advice on liability and insurance**

- a general statement on liability approved by lawyers would be helpful,
- any advice however would be premature until the guidance was closer to a final draft,
- existing legal advice available would be reviewed by the group,

In conclusion, it was recognised that there is still some work required to progress the content of the guidance. David volunteered to pull together a revised draft of the guidance that took account of the sub group comments.

**AP 1:** David to circulate revised guidance for discussion at the next sub group meeting.

**AP 2:** John to circulate legal advice previously received on Forest Roads and Public Use

**AP 3:** NAF sec to circulate a copy of SNH's revised 'brief guide to occupiers' legal liabilities in Scotland in relation to public outdoor access'.

**3. Timeline for delivery of work**

The timeline for delivery remains fairly tight. The next sub group meeting was therefore planned for 16<sup>th</sup> May, to follow the main NAF meeting, where the draft for consultation would be finalised. This would then be presented to a wider workshop of invited key stakeholders to be held in late June in Aviemore. Three consultation events (open meetings) are proposed for the Tweed Valley, Perthshire and Aberdeenshire where guidance would be presented to a wider audience to gather views. Final comments would be sought from the main NAF meeting on 26<sup>th</sup> September with the guidance signed off by the sub group in October before its final launch at the Mountain Biking conference on 22 – 24 November.

**AP 4:** Graeme to book Glenmore Lodge for 25 June (tbc) for the stakeholder workshop

**AP 5:** Karen to draft an invitation letter for key stakeholders

**AP 6:** All to consider potential invitees for the stakeholder workshop.

**4. Tender, Consultant and Funding**

It is anticipated that a consultant (with design skills, knowledge of the subject matter and audience) may be required to finalise the guidance. This is expected to be a modest cost with the aim of making the guidance very enabling and user friendly.

**AP 7:** Kevin to draft a brief for a consultant to design and test the guidance.

**AP 8:** Other sub group members to investigate possible funding contributions.

**5. Communications**

**i) Update on recent PR**

Following the previous newsletter article, the BBC had contacted SLE to ask about highlighting the issue. Filming took place at Glentress in April and the article was shown on Landward BBC1 Scotland on 23 April. Other PR is on-going.

**ii) Development/sign off of key messages**

The sub group reviewed the key messages and subject to a few minor changes it was agreed that these should be presented to the NAF meeting in May for wider comment.

**AP 9:** Convenor and NAFsec to include the key messages in the feedback from the sub group to NAF in May.

**DONM – Wednesday 16 May** 3pm following the NAF meeting at Battleby.

## ***Annex 1: Key messages (extract from the draft guidance)***

The following three key messages highlight the importance of mountain biking in Scotland, the reasons why unauthorised trails are a matter for concern, and the perspective of mountain bikers.

### ➤ *Scotland's Reputation as a Global Leader in Mountain Biking*

Scotland is rated in the top 5 destinations in the world for mountain biking. The activity is now worth £257m per year to the Scottish economy and there is an estimated 1.5m trips to the Scottish outdoors per year on a mountain bike. Considering that mountain bikes were only introduced to the UK in 1982, this growth in the activity has been incredible.

The success has been due to the nationwide distribution of purpose-built trail centres, with over 40 sites across Scotland. Meanwhile, Scotland's access legislation allows mountain bikers to share the same rights and responsibilities as walkers and other users to create adventures.

As well as bringing economic benefits, mountain biking also helps Scotland in many other ways including:

- increased outdoor activity by teenagers and underrepresented groups
- physical and mental health benefits from increased participation
- sporting achievements - Scottish riders are amongst the best in the world and compete successfully on the world stage
- Scotland's international profile, which benefits from the reputation of Scottish riders, trails, access rights and the co-ordinated tourism approach.

### ➤ *The issue of unauthorised trail building*

Whilst the vast majority of riders who access rural land do so responsibly, there are increasing examples of where landowners and land managers are experiencing problems relating to unauthorised trail building. In this guidance, "unauthorised trail building" means using hand tools or mechanical equipment to construct tracks and associated structures without consent<sup>1</sup>.

Undertaking work to build tracks and features on someone else's land is not an activity covered by the responsible right of access in Scotland. The building of unauthorised trails is a serious issue for land owners/managers as there is:

- no planning of the trail location – this can lead to breaches of environment legislation, for which landowners/managers may be held liable, or non-compliance with CAP rules
- no consultation with other forest users – this can lead to clashes between user groups
- no guarantee that trails are properly designed and constructed – this can lead to risks to riders and other users, caused for example by unexpected challenges or dangerous exits.

Although the Land Reform (Scotland) Act 2003 gives everyone statutory access rights to most land in Scotland, any person or organisation with a responsibility for the land still has a legal duty of care to all users. There are further details about legal liability such legislation as the Occupiers Liability (Scotland) Act 1960 and the Health & Safety at Work Act 1974 in section 4 of this Guidance.

The scale of unauthorised trail building, and their use, has grown in recent years as mountain bikers have shared information about them on social media and platforms such as

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<sup>1</sup> See Glossary of Terms – Annex I

Strava and Trailforks. The risks of injury and environmental damage have increased with more riders on the trails.

➤ *The mountain bikers' perspective*

A few mountain biking groups have approached landowners/managers to develop trails, as advocated in the DMBinS *Do The Ride Thing* guidance. However, these groups are not necessarily willing or able to take on the responsibilities associated with community buy-outs or leases of land. Mountain bikers are therefore keen to have open and honest discussions with landowners/managers about identifying appropriate locations for constructing well-designed low impact trails and agreeing upon associated management models.