

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

### Minutes from the second meeting: Tuesday 12 December 2017

#### Attendance -

David Henderson Howat (Chair), Janice Winning (NAFsec), Kevin Lafferty (FCS), Graeme McLean (Scottish Cycling), Simon Pilpel (S Lanarkshire Council/ LAFs), David Clyne (Cairngorms National Park), Angus Duncan (Falkirk Council/LAs), Helena Mauchlen (BHS) Jamie Smart (NFUS), Alan Macpherson (SNH), John Ireland - Health and Safety Policy and Development (FES),

**Apologies** – Paul Timms (CTC ), Mike Brady (S Lanarkshire Council), Karen Ramoo (SLE)

#### AGENDA

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

The minutes from the first meeting on 9 August 2017 were approved. Action points identified as the next steps (preparation of potential management models, a communication plan, and potential case studies) had been discharged, or would be discussed at this meeting. Under matters arising, email exchanges highlighting the importance of liability issues were noted and would be addressed within the proposed guidance.

##### 2. Scope of the guidance & content – review draft outline

KL provided an introduction to the draft 'guidance which had been prepared by KL and GM with input from FES staff, MTB groups and KR. This included a contents page and some draft content. It was noted that there is still some considerable work to be done to develop a full draft of the guide. Advice was sought from the sub-group on whether it should be informal or formal guidance, whether it should be endorsed by NAF, whether it should be PDF guidance on the website or a series of individual guidance sheets? GM explained that the guidance is currently aimed at MTB groups and landowners but sought views on how detailed the guidance should be, the potential structure for the document and the level of consultation required.

Discussion points made by the group included the following suggestions:

- It should be a relatively short and visual document with key links to other guidance that exist already.
- It should highlight what is acceptable/unacceptable under the SOAC (e.g. where the creation of desire-lines are acceptable and where due to the pressure of numbers or ground conditions, they are not).
- There was strong support for reinforcing and describing *responsible* access for MTB with links to all the guidance that currently exists (e.g. Do the Ride thing).
- it should serve as a management guide for addressing 'unauthorised construction'.
- a process map for decision making should be included.
- The guide should recognise other users. It was suggested there is currently insufficient focus on the impact of MTB trails on other users – for example, in a recent case in Dures Forest, Aberdeenshire the BHS was not consulted on a new £12 mill MTB centre that would have imposed restrictions on local horse riders. Small conflicts, particularly in woods, are common. With the growth in MTB more consideration should be given to pinch points with other users.
- Relevant planning issues should be noted within the guidance, recognising that expert advice might be required. In this context, there is an important distinction between purpose built trails and those of a temporary nature. Thus, the guidance

should cover when planning is required, what the process is, and information on likely consents and enforcement.

- There is a need to look beyond forest land to include other agricultural land, and small holdings. Individual landowners were often disproportionately affected as they have less resources to manage unauthorised trail activity.
- The idea of training to accompany the guidance was put forward.

Following discussion about how to develop the guidance, and the consultation process, it was concluded that:

- the guidance should be published on the NAF website (similar to the 'wild camping guidance');
- a draft of the guidance should be discussed at stakeholder consultation meetings, to be held during 2018. This could consist of a National event and/or Regional events targeting landowners/managers, LA access officers and key players in the MTB community. Possible venues are Glentress (Peebles), Falkirk and somewhere suitable in the Highlands.

**AP1: following discussion by sub-group, and any further comments received, KL and GM to refine the draft guidance.**

**AP2: HM to circulate details of the Duress Forest development for information**

### **3. Management models – draft options**

GM discussed this item which was work in progress. It currently covers a range of scenarios, namely: (1) the landowners not giving permission for activity outwith the Code; (2) Short Term Agreements about MTB groups building authorised low level trails; ; (3) Longer Term Agreements between landowners and Trail Associations/MTB Clubs; and (4) responsibility fully devolved, for example through community asset transfer. Templates defining the nature of the agreements, a method statement, and risk assessments would be produced.

KL explained that the contracts, memorandum and liability issues were being assessed to make sure they were robust. DHH highlighted the need to ensure the guidance worked for different types of landowners (i.e. private, public, voluntary sector), also recognising differences in scale. JS expressed some concerns about making the risk assessments fit for purpose. JS also raised the issue of assistance for landowners when criminal damage is an issue. Suggestions included involving Police Scotland, in the draft consultation with perhaps the inclusion of links to 'Standard Police Operating Instructions'. Issues about including the effects on other users were again raised in relation to these management models.

**AP3: GM to circulate the draft management models and request feedback from the subgroup.**

### **4. Advice on liability for landowners – review rough draft**

GM had prepared this draft with input from AM. Questions were raised by the group on levels of individual liability provided by users groups. MTB users are unlikely to be covered as individuals, although being a member of Scottish Cycling does give £5 mill public liability insurance. SP suggested that the guidance needs a statement about individual responsibility, why this is important and where insurance can be obtained. SP also asked about the inclusion of relevant case law to highlight what can happen if the correct trail design isn't followed and the potential implications. DC said there was a possible example from Loch Lomond. GM agreed to highlight more clearly the personal and shared liability issues for MTB users and trail builders within this guidance.

## **5. Flow chart of advice for landowners & mountain bikers – review rough draft**

GM explained that he had based the flow chart on previous wild trail guidance produced by the FC. There was general agreement that this type of process map would be helpful in the guidance. Suggestions were made for additional feedback loops, and a greater emphasis on 'responsibility'.

## **6. Communications and key messages (FES article attached to aid discussion)**

KL introduced this item. The communication surrounding the consultation of the guidance would be key and an important part of the process. He suggested it should be a targeted campaign to key stakeholders. Generally the key messages have been identified.

GM suggested targeting key individuals and networks within the MTB sector. Other suggestions included 'point of sale' communication, including 3<sup>rd</sup> sector landowners, and there was discussion about identifying a communication 'Champion' to front the campaign.

**AP4: GM to approach potential communications champions in the MTB sector.**

## **7. Case Studies**

The group discussed the couple of case studies that had been prepared by KR and it was agreed that these could be a very useful addition to the guidance or stand alone. Other examples that had been mentioned during the discussion e.g. Aigis Trail, the Knock at Crieff, Clyde Valley woodland NNR case, examples from CSGN (SP/AD) would be captured in the same format for further discussion. Examples of unresolved cases were also thought to have merit.

**AP5: All to provide examples of relevant case studies (resolved or unresolved cases) for discussion at the next meeting.**

## **8. NEXT STEPS**

The draft guidance would be further prepared for the presentation at the 7<sup>th</sup> February NAF meeting with suggestions for the consultation process and events. Further ideas for the consultation events and accompanying communications would be sought at the NAF meeting.

**9. DONM - to be arranged for end March**

