

DRAFT UNCONFIRMED MINUTES

National Access Forum – 42nd meeting

Battleby
17th May 2017

Present:

	Representatives	Organisation
1.	David Henderson Howat	Convenor National Access Forum NAF
2.	Rob Garner	Secretary National Access Forum NAF
3.	Janice Winning	Future Secretary National Access Forum NAF
4.		
5.	Frank Spencer-Nairn	Assoc of Deer Management Groups (ADMG)
6.	Helene Mauchlen	British Horse Society Scotland (BHSS)
7.	Paul Timms	Cycling UK
8.	Kevin Lafferty	Forestry Commission Scotland FCS
9.	Lois Bayne-Jardine	Historic Houses Association Scotland (HHAS)
10.	Stephen Jenkinson	Kennel Club / Scottish Kennel Club
11.	Simon Pilpel	Local Access Forums (LAF) contact
12.	Angus Duncan	Local Authorities contact
13.	David Gibson	Mountaineering Scotland (MS)
14.	James Orpwood	Mountaineering Scotland (MS)
15.	Jamie Smart	NFU Scotland (NFUS)
16.	Rona Gibb	Paths for All (PfA)
17.	Brendan Paddy	Ramblers Scotland (RS)
18.	Eddie Palmer	Scottish Canoe Association (SCA)
19.	Jonathan Kitchen	Scottish Canoe Association (SCA)
20.	Gareth Heavisides	Scottish Government (SG) Rural & Environment Directorate
21.	Karen Ramoo	Scottish Land & Estates
22.	Alan Macpherson	Scottish Natural Heritage (SNH)
23.	Roger Scrutton	Scottish Sports Association (SSA)
24.	George Menzies	Scotways
25.	Gillian Kyle	sportscotland

Item 1 – Welcome – the Convenor opened the meeting with a welcome to all attending. In particular, David introduced Janice Winning from SNH, who is to be taking over the role of NAF Secretary from Rob Garner as he retires in June.

Apologies: ; Jake Swindells - British Association for Shooting & Conservation (BASC); Duncan Orr-Ewing - RSPB Scotland (RSPB); Riddell Graham - VisitScotland; Gillian Brymer - Wild Scotland; Ruairidh Macintyre – Confed of Forest industries (Confor); David Clyne - National Park Authorities (CNPA); Scottish Advisory Panel for Outdoor Education (SAPOE); Eileen Stuart - Scottish Natural Heritage (SNH).

Item 2 – Minutes, action points and Matters Arising from previous meeting

1. The minutes of the previous meeting (25th Jan 2017) were approved with one minor amendment.

2. Action points –

AP41/1 - David Gibson to send the link to the ‘Snowsports Touring & Managed Resorts in Scotland’ leaflet to the Secretary for circulation - *Discharged*

AP41/2 – Secretary to arrange the next meeting of the Core paths and OS maps sub-group in late February - *Discharged*

AP41/3 – FCS to arrange a site visit for a range of interested members to view and discuss the Enduro mountain bike issues in more detail – *Discharged, see item 5 below*

AP41/4 LLTNPA requests that comments and suggestions regarding the camping byelaws are raised directly with their communications team, to assist feedback and direct contact – *Discharged – (potential topic for 43rd meeting in September).*

AP41/5 - The Convenor to note the suggestions over the content and positive tone of prospective work for the Forum in developing the forward programme – *Discharged, see item 11 below*

3. The summary note of the National Access Forum – Local Access Forums Joint meeting (17th March 2017) was noted, and there was comment on how it had usefully worked around the same positive aspects of what is happening in practice, in topics like enjoying the outdoors with dogs, and also in local communities and projects such as the St Fillans path and the initiative at Kinneil to involve young local cyclists in developing facilities.

Matters arising -

4. The timing of the NAF-LAFs meeting in spring was generally welcomed, and it was suggested that holding the meeting in March should continue next year, potentially in Battleby again. Rona Gibb agreed that she felt it had been a very positive event which participants had been able to take a lot from. For next year’s event, she suggested that as 2018 will be the Year of Young People, that could provide the theme for the NAF-LAF, perhaps with involvement from Young Scot, and that suggestion was welcomed.

AP42/1 – The NAF-LAFS meeting in 2018 is to be held in March, and to be themed around young people as part of the Year of Young People.

Item 3 - Reports from Convenor and Secretary

5. The Convenor reported that with the Secretary due to retire in June, he had written in March to the Chief Executive of SNH to emphasise the need for a smooth and effective replacement of the NAF Secretary role. The Chief Executive, Ian Jardine, had sent a reply recognising these needs, and David quoted a passage from the email saying – “We continue to see NAF as one of the most important forums we support, and its work - together with the work of the network of local access authorities and Local Access Forums - is one of the key reasons Scotland has successfully delivered on its access legislation. SNH will continue to prioritise support to NAF - indeed we have identified this as key deliverable for 17/18.” The successful replacement, with Janice Winning, is very welcome as an outcome, and it was recognised that there will be support and assistance for Janice as she gets to grips with the role.

6. The Convenor also noted that the Scottish Government's Forestry and Land Management Bill is currently going through Parliament, with proposals to reorganise the current Forestry Commission Scotland and Forest Enterprise Scotland, into a Forestry Division within Scottish Government and a Forestry and Land Scotland Agency. In discussion, Simon Pilpel asked what might be the implications for access, as it was noted that in England the issue of public access to the forest estate was a key issue and an effective concern. In Scotland the right of access is assured, but there may be concerns over the infrastructure such as managed paths and signposting. Kevin Lafferty said that there will be opportunities for comment, and that for reassurance there should be no change in the level of support and numbers of staff when this restructuring happens probably in 2018. Gareth Heavisides outlined the prospective stages of the Bill through committees and the parliament. There was discussion over the Forum submitting some comments on potential implications and opportunities in the proposed changes, but it was suggested that there was limited scope for input at the present stage, and it is something to monitor with a view to contributing comments once there is a suitable opportunity.

AP42/2 – Progress of the Forestry Bill to be monitored, with a view to contributing Forum comments as appropriate at a suitable stage.

7. The Secretary reported on some correspondence with staff of the NHS and Health Protection Scotland over their proposals for an 'Outdoor Health Code', which focussed on infection risks such as Lyme disease and E.coli, but which gave rise to some concerns over partial messaging (with no mention of health concerns like obesity and mental health which are not infectious) and hence the potential for some confusion. This correspondence had resulted in some useful re-drafting and in the term 'Code' being dropped, to produce a more focussed information note and safety advice on the risks of infections. The Secretary also noted that the third round of the SRDP 'Improving Public Access' grants was currently open for applications, until the end of May.

Item 4 – Revised 'Guidance to Local Authorities' -

8. Gareth Heavisides for the Scottish Government reported that he had been working with Rob Garner and SNH on producing a revised and updated draft of the 2005 'Guidance for Local Authorities and National Parks' on operating the powers and duties under the Land Reform Scotland Acts, for instance to include guidance on the relevant provisions in the 2016 Act. This draft is now complete, but is yet to go out to consultation, and there will be notification when that consultation starts.

9. In discussion, Frank Spencer-Nairn (ADMG) enquired whether it included any coverage of vehicle access, given that there seems to be increasing pressure over volumes of traffic and from irresponsible parking. Others agreed that a range of issues are becoming evident, for example the parking issues developing around the FC car park at the Fairy Pools on Skye, where overflow verge parking is causing problems for emergency vehicle access and other road users. There is often limited or mixed information on where and how to park, with example problems reported for farmers with blocked field access, for canoeists in some areas, issues of double parking arising in East Lothian, some examples in the Pentlands where barriers against fly-tipping were hindering access by cars carrying bicycles, or by horse-boxes at Aberdeenshire beaches. Parking pressures was partly behind the Loch Lomond bye-laws, and issues over charging fees for parking have arisen at various locations. The Convenor concluded that this was clearly a topic for further discussion, which might need to involve some roads authority interests and possible Police Scotland.

AP42/3 - The topic of traffic and parking will form an item on the next NAF agenda, and members are invited to submit examples of these issues to inform the preparation of a discussion paper.

Item 5 – Mountain Biking -

10. The Secretary introduced the paper and provided feedback from the 8th March site visit to Glentress where interested members were able to view and discuss a range of issues relating to Mountain biking facilities and activity. In particular, the group viewed examples of FCS-constructed MTB routes (marked, monitored, well-engineered and constructed). They also saw an example of an 'Enduro trail' an unconstructed track which was a rougher informal track which could be followed on GPS and was part of an event route for timed competitions. They visited the Innerleithen Downhill Centre to view more downhill trails and saw evidence of unofficial routes that had been created. As well as discussing the problems that the unofficial activity can cause, the discussion mainly focused on how to communicate better between land managers and users, and the role of bike shops as well as key local individuals in the communication process.

11. Kevin Lafferty explained that the group were able to see the issues in a real life setting, including examples of fly construction, which are some examples of an estimated 500 km of such unauthorised trails on FE land. He explained some of the difficulties eg staff time to remove these constructions, some of which can be fairly substantial and some can be unsafe, so a range of solutions needs to be found. He suggested the following topics for further consideration: an agreed wording for communications, good examples of work with trail designers, use of other recreational guidance to seek solutions e.g. from skiing (on and off piste), and that perhaps this could be done by a sub group of the National Access Forum as proposed in the paper.

12. In discussion of the paper, Karen Ramoo said that SLE members were supportive of mountain biking but only if it was taken responsibly. She agreed the need for a joined up approach especially on key messages and would like to see a NAF sub group established. Paul Timms also gave support for a sub group to be set up, suggesting that it should be 'small' with corresponding member if needed. Kevin Lafferty proposed the inclusion of representatives who are not on NAF e.g. someone representing Health and Safety. Simon Pilpel endorsed this and suggested the inclusion of someone from a user perspective. The Convenor agreed that a sub group of the Forum would be set up drawn from Full NAF and Corresponding Members accordingly. Paul Timms and Kevin Lafferty proposed David Henderson Howat as the Chair of the sub group. Initial volunteers for the sub group included: Paul Timms, Kevin Lafferty, Helene Mauchlen, Karen Ramoo, Jamie Smart, Angus Duncan, with other representatives e.g. SAPOE to be confirmed at the first meeting along with Terms of reference etc.

AP42/4 - Secretary to arrange a first meeting of the MTB sub group, prior to the September NAF meeting.

Item 6 – Core paths and OS maps -

13. There had been a second meeting of this sub-group on 28th February, with a note of meeting circulated, which included an update from Ramblers Scotland on their website campaign which had gained over 1300 supportive comments, and an update on how the Improvement Service mapping work had now completed a full coverage of all 34 authority core paths plans. Shona Nicol had attended the meeting to give an update on the Scottish Government regular contacts with the Ordnance Survey, and her staff had subsequently undertaken a short pilot study of South Lanarkshire to look at some practical aspects of core paths mapping. George Menzies reported on his contacts with access staff in Northumberland, and the relatively straightforward process they have for notifying OS of changes to rights of way which are then inserted onto the OS maps. Brendan Paddy noted that their campaign has had a large and supportive response from all types of users, so publicly available core paths mapping is seen as a public benefit, and may also be of commercial benefit to map producers, while technical cartographic issues are not seen as

insurmountable relative to the same issues for rights of way mapping. In conclusion, the Convenor noted that there has been a lot of positive and co-operative input on mapping which will have benefits to users and to land managers alike, so this will be taken further at the next sub-group meeting in June and may then need to see some approaches made to Ministers.

Item 7 – Scottish Land Commission, parliamentary event -

14. Andrew Thin, Chair of the Scottish Land Commission, gave a verbal presentation to the meeting explaining the structure and the background to the establishment of the SLC on 1 April 2017. He said their focus was likely to be on 'productivity' i.e. could our land produce more, and secondly 'inclusion' - could our land benefit more of us in social, economic or cultural terms? The SLC would investigate whether or not further land reform was needed to make this happen. They would be taking a calm and measured approach to any further land reform taking account of the various land reform legislation that had occurred over the years. They would have the ability to review any law and suggest changes, or provide information and guidance on anything. As well as a focus on productivity and a more diverse land ownership they would also focus on economic revival, may cover disputes around land tenure, and will include urban as well as rural land in their thinking. Andrew confirmed that the SLC had no wish to take on the role of others, instead it was likely that any reviews would be done in collaboration with others, such as SNH, the National Access Forum etc. The SLC expects to have produced a Strategic Plan by the end of September 2017 which will be reviewed every 3 years.

15. A number of questions followed from members of the Forum: The Convenor asked about the draft 'land rights and responsibilities statement of principles'. Andrew confirmed that the SLC had given advice on this and that the legislation requires SLC to take account of it, admitting that it would be difficult to implement. Kevin Lafferty asked what are the 'other issues' like perhaps land taxation, or potential examples, such as land ownership in Finland where more people own land and are more connected to the land. Andrew explained that the SLC would be looking at land ownership maps and land value taxation may be on the agenda sometime in the next 3 years. He said Ministers want to diversify land ownership and have different kinds of ownership, as concentrations of private ownership can also be an issue, but this needs to be evidence-based.

16. Simon Pilpel asked about the place of the Government's Land Use Strategy, and economic strategy, and Andrew confirmed that these will be significant, along with other strategies like the National Performance Framework. The Convenor questioned whether securing behavioural change was really as easy as Andrew had indicated, as the challenges in this were certainly evident for instance at the NAF-LAFs meeting discussions recently. Stephen Jenkinson agreed that behaviour challenges are real and behavioural change is not easy, especially where behaviours are well-established. Andrew replied saying that the vast majority of people want to do the right thing and that SLC wants to lead positive change. Helene Mauchlen noted their experience with animal welfare laws, including fixed-penalty notices, as drivers of changing standards of behaviour in owning an animal, although Andrew did not see the SLC being a legal adjudicator in that sense. Jamie Smart highlighted that with rights and responsibilities there were lots of issues addressed at land owners and land managers but relatively little to enforce rights and responsibilities by user groups, so he was concerned that the land rights and responsibilities were too onerous on land owners. There were other queries mentioned, over for instance vacant and derelict land, but the discussion had to be drawn to a close, with the Convenor thanking Andrew for attending and looking forward to keeping in touch as the work of the SLC proceeded.

Item 8 – Occupiers’ Liability – case law update

17. The Secretary presented his paper which outlines several relevant court cases that have arisen over the decade since the ‘Brief Guide’ to Occupiers’ Liabilities booklet was published, explaining that a clear consistency in court judgements has been maintained, and in several respects strengthened, by the outcomes of these cases. It is planned that SNH will insert these recent cases into an updated re-issue of the publication.

18. There was some discussion about whether there is an enhanced level of liability when a charge of any sort has been levied, and although none of those recent cases have featured that issue, it was suggested that an enhanced level of duty of care could be created, or indeed some element of a contractual position may be generated by payment of a charge. Jamie Smart welcomed the information in the report, but noted that it could be cripplingly expensive to contest a damages claim, even if in the end it finds in favour and costs may be awarded, and not everyone has suitable public liability insurance, especially small-holders. Brendan Paddy welcomed the report, and thought the court judgements are re-assuring, conscious of the stress that can be involved in some cases through public reactions and media approaches. Gareth Heavisides asked whether it was a full picture or just one-side of the experience, but it is the former once the full progress of cases (ie. including appeals where noted) is finalised, and the way that many cases build on key previous cases (especially the Tomlinson case) is a key factor in that consistency.

AP42/5 – SNH is encouraged to produce the updated revised edition of the ‘Brief Guide to Occupiers’ Legal Liabilities’, and to inform the Forum when it becomes available.

Item 9 – Drumlean – Sheriff Appeal Court case

19 The Secretary presented this paper which highlighted the main issues that were clarified during the Sheriff Appeal Court hearing. It was noted that a further appeal has now been lodged, so this is not finalised, but even on an interim basis the considerations over certain issues, like the status to be given to the Scottish Outdoor Access Code, is quite illuminating. There were some brief clarifying questions, and this case continues.

Item 10 – Communications Update

20. The brief paper noted that SNH is starting to look into updating approaches and priorities for its Access Code Communications for the next three years, and will be seeking wider views in the near future. There was a request for members to remember to enter news about any planned publicity, publications, events etc onto the Knowledge Hub Comms Calendar, because it is more effective the more actively it is used. Loch Lomond and Trossachs NP had mentioned that they are planning a promotion campaign on open-water swimming in about September, and Gillian Kyle suggested that sportscotland may be doing something on the same subject then so there could be some co-ordination on the topic.

21. Jamie Smart raised that cases of sheep-worrying by dogs is still on the increase with a large rise last year, so would like to see stronger messages being sent out on a co-ordinated basis working with Police Scotland, the Procurator Fiscal and other groups, with more emphasis on dogs being on leads. Stephen Jenkinson agreed, and the Kennel Club does publicise using dog leads, with the statutory requirement for a collar and tag. They also undertake research on the key target audiences, since more than half these attacks appear to stem from unaccompanied, locally-resident dogs, rather than from dog-walking, and they are keen on dialogue over messages and approaches. Helene Mauchlen suggested there should be more reference to strict liability under the Animals Act, and to the need for insurance, and possibly more use of Freedom of Information requests to the police to gain better factual information on dangerous dogs. BHSS has found that a key approach is to use peer pressure from within particular user communities, and also admires the approach developed by Young Scot to use reward points, for instance gained by reading a particular document. Rona Gibb requested more co-operative direct use of social media, for instance with twitter feeds in a format which can be easily and quickly forwarded more widely, with

clear links to get information spread widely. Alan Macpherson noted that SNH had worked with Young Scot on those approaches, and could perhaps describe that work to a future meeting, and sportscotland has also developed methods of youth involvement which may be of wider interest.

AP42/6 – SNH to arrange a presentation on communication methods through Young Scot and targeting young people.

Item 11 – September meeting: prospective agenda –

22. The Convenor suggested that the next meeting agenda could include five topics:

- the positive benefits of access and recreation, for which Paths for All offered to prepare some thoughts and ideas,
- feedback on the MTB sub-group's considerations,
- something from LLTNP on their experience so far with the 'Your Park' camping byelaws, and perhaps on their open-water swimming promotion,
- an update on the National Cycling and Walking Network
- a paper on the range of parking-related issues as discussed earlier. **AP42/7** for the paper on Parking concerns, members were invited to email to the secretary with their views, suggestions and examples on parking problems and solutions by mid-July. The convenor will then gather that material and circulate a draft for comment, to form the basis for a paper at the September meeting

Item 12 - Any Other Business –

23. Angus Duncan reported that in the Falkirk area there have been some farmers erecting 'No unauthorised access beyond this point' signs, apparently at the request of insurance companies. It was suggested that the Association of British Insurers might be contacted about this, to see if it is just lack of awareness or something more official.

AP42/7 – Angus Duncan, and others if known, to supply more information on these signs and cases, and whether any insurance misunderstandings may be involved.

Jamie Smart raised the problem of unplanned landings by hot-air balloons, with two recent cases. The relevant representative body is the British Ballooning and Airship Club, the BBAC, which negotiates with the National Farmers Union (NFU) and the Country Land and Business Association (CLBA) and has a national system of reporting areas where balloons have been asked not to land. Typically these would be stud farms or pig farms. This information is gathered locally and reported to the national data base. The BBAC website enables the reporting of any issues.

Rona Gibb reported that May is 'National Walking Month', this week focussing on walking to school; Transport Scotland will be running a campaign to leave the car at home on Wednesdays; throughout June the 'Big Fit Walk' is being held; the Paths for All 2017 Annual Lecture will be on 25th October, with a lecture the previous day 24/10 for planners on making built-up areas walkable and liveable.

David Gibson reported that Mountaineering Scotland is working with the BMC on fund-raising for the restoration and improvement of hill paths, initially in national parks, as a UK campaign. Eddie Palmer noted that the term 'right to roam' continues too often to appear in the press, which is damaging for efforts to promote responsible access.

Kevin Lafferty provided an update on the work to raise awareness of ticks and Lyme Disease, and beginning in June there will be a programme of videos, case studies, and blogs for training and awareness, with more research within FCS, and he can provide fuller details and share materials at the next Forum meeting. Gillian Kyle reported that the 'Come and Try' events being run by sportscotland this summer will include Open-water Swimming, and she will also bring fuller details to the next meeting.

Change of Forum Secretary -

24. Janice Winning, who is to take over as the Secretary to the Forum, introduced herself and explained her role in SNH, and how the arrangements within SNH are to be adjusted. The Convenor then on behalf of all the membership gave a very warm and complimentary message of thanks to Rob Garner for all his work and enthusiasm in this capacity over recent years, and kindly presented a signed card and presents. Rob mumbled something incoherent in reply, thanking all for their patience and wishing the Forum lots of continued activity and success into the future.

Date of Next Meetings - Wed 27th Sept 2017
Wed 7th Feb 2018

Close - The Convenor thanked all those attending, and closed the meeting.

Summary action points:

AP42/1 - The NAF-LAFS meeting in 2018 is to be held in March, and to be themed around young people as part of the Year of Young People.

AP42/2 – Progress of the Forestry Bill to be monitored, with a view to contributing Forum comments as appropriate at a suitable stage.

AP42/3 – The topic of traffic and parking will form an item on the next NAF agenda, and members are invited to submit examples of these issues to inform the preparation of a discussion paper.

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