

## UNCONFIRMED DRAFT

### 20<sup>th</sup> meeting of National Access Forum

Battleby  
24 February 2010

#### Present:

Richard Cooke	Convenor
Mark Wrightham	Secretary
Andrew Bachell	Scottish Natural Heritage (SNH)
Dorothy Breckenridge	Activity Scotland (AS)
Hebe Carus	Mountaineering Council of Scotland (MCoS)
Mike Dales	Scottish Canoe Association (SCA)
Malcolm Duce	Scottish Government (SG) Rural Directorate
Campbell Gerrard	<b>sportscotland</b>
Anne Gray	Scottish Rural Property & Business Association (SRPBA)
Steve Jenkinson	Kennel Club/Scottish Kennel Club (SKC); for item on dogs and ground-nesting birds
Bridget Jones	Loch Lomond & the Trossachs National Park Authority (LLTNPA)
Richard Kay	Confederation of Forest Industries (ConFor)
Kevin Lafferty	Forestry Commission Scotland (FCS)
John Mackay	CTC Scotland (CTCS)
Alastair Maclennan	NFU Scotland (NFUS)
George Menzies	Scotways
Dave Morris	Ramblers Association Scotland (RAS)
Duncan Orr-Ewing	RSPB Scotland
Simon Pilpel	Local access forum contact
Geoff Robson	Convention of Scottish Local Authorities (COSLA)
Colin Shedden	British Association for Shooting & Conservation (BASC)

**Apologies:** Robert Balfour (Association of Deer Management Groups), George Cochrane (Scottish Canine Consultative Council), Lee Cousins (Scottish Sports Association), Alick Hay (Historic Houses Association of Scotland), Jonathan Kitching (Scottish Advisory Panel for Outdoor Education), Tara Macgregor (VisitScotland), Helene Mauchlen (British Horse Society Scotland).

1. The Forum noted with regret the death of John Taylor, who had represented CTCS for many years. John was very committed to enjoyment of the outdoors, but he also had a land management background as a forester with FCS and brought this breadth of experience to the Forum's work.
2. The Convenor suggested that the Forum should defer the standing agenda items on core path planning and access authority funding to allow more time under 'Other Business' to discuss proposed LLTNPA byelaws; this was agreed.

#### Minutes of previous meeting

3. The minutes were approved. John Mackay noted with regard to the recent membership review (para 37) that Scotways did not regard itself as a representative body for recreation interests.

#### Matters arising

*Action point 19/1: SNH to bring paper on electric fencing to next meeting.*

4. Carried forward to next meeting.

**Action point 20/1: SNH to bring paper on electric fencing to next meeting.**

*19/2: Consultation draft IoF guidance on outdoor events to be circulated for comment by Forum members; to be compiled as a response on behalf of the NAF.*

5. Discharged – on agenda.

*19/3: Future agendas to include sub-group updates.*

6. Ongoing.

*19/4: Forum to establish a sub-group to develop guidance on commercial access when the current events sub-group has concluded.*

*19/5: Secretary to initiate preliminary correspondence between interested Forum members to clarify scope of commercial guidance.*

7. Ongoing. A limited number of responses had so far been received. The Secretary noted that CTC Scotland had highlighted a need for more information about the nature and distribution of issues relating to commercial access and he suggested that it would be helpful to receive further contributions addressing this point.

*19/6: Paper on access with dogs to be included in a NAF agenda for discussion next year.*

8. Discharged – on agenda.

*19/7: Secretary to circulate e-mail addresses of local access forum (LAF) chairs to those on list to establish an informal contact network.*

9. Discharged; LAF chairs are also now included in the Forum's e-mail circulation.

*19/8: Secretary to discuss communication between Forums with COSLA and the National Park Authorities.*

10. Discharged. Mark Wrighttham had recently contacted the COSLA and NPA Forum representatives to consider options. Bridget Jones had suggested that the annual joint meeting could be made more participatory and include more time for networking between local forum members.

**Action point 20/2: Secretary to develop proposals for a new joint meeting format in conjunction with access authorities.**

*19/9: SNH to discuss scope for periodic information sharing with PFAP.*

11. Discharged. The Secretary reported that PFAP had offered to circulate periodic summaries of current issues based on their six-monthly position statements (which cover issues arising in different access authority areas).

**Reports from Convenor and Secretary**

12. The Convenor noted that he had attended the Clackmannanshire local access forum and informally visited PFAP during November 2009.

13. The Secretary summarised a number of areas of recent and ongoing activity:

- Scottish Borders Council had highlighted a number of cases in which locked gates had been installed by British Railways Board (Residuary) to prevent access to disused railway viaducts. The Forum discussed the extent of similar issues and experience in addressing them, which highlighted a number of similar cases involving access over or under rail bridges, or through tunnels, some of which had involved routes of potential value and had therefore prompted concern. Simon Pilpel noted one case in which the access authority had successfully negotiated the provision of an alternative crossing to replace a closed viaduct.

**Action point 20/3: SNH to highlight the potential importance of access across disused rail viaducts, and the Scottish access context, with BRB (Residuary).**

- The Access for All (Scotland) Forum had agreed to develop guidance on access with motorised vehicles “constructed or adapted for use by a person who has a disability”, as indicated in Section 9(f) of the Act, which would be taken forward through a sub-group of that Forum.
- SNH was seeking to discuss the relationship between roads and access legislation, as noted in previous discussion, with Transport Scotland.

**Reports from sub-groups**

14. Andrew Bachell reported that the stalking communication sub-group was continuing to work on the proposed web facility to replace *Heading for the Scottish Hills*. Some technical difficulties had arisen with the integration of different functions within the site and in providing third party access, but the sub-group hoped that a pilot site covering the current *Hillphones* areas and Blackmount Deer Management Group could be launched for the 2010 stag stalking season. The sub-group would meet again shortly to finalise the web pages through which estates would access the system.
15. Dorothy Breckenridge and Mark Wrightham reported that the events sub-group would meet again in late March to discuss a first draft of proposed guidance. The Institute of Fundraising and Wildfox Events had agreed to contribute to the sub-group and EventScotland had held preliminary discussion with a number of event organisers.

**Dogs and ground-nesting birds**

16. Duncan Orr-Ewing introduced the RSPB paper accompanying this item, noting that RSPB supported the access legislation and promoted access on managed sites, but expressing concern about disturbance of ground-nesting birds by uncontrolled dogs. He noted that RSPB was under a legal obligation to manage designated sites in its care to achieve favourable condition and suggested that the Code did not provide sufficient guidance on this issue, that there was a need for further support to land managers, and that a Forum sub-group could be established to take this forward.
17. Steve Jenkinson summarised the accompanying SKC paper, suggesting that it would be important to foster support among dog owners, for example by seeking to influence the target audience through peer pressure and by positive management such as the provision of off-lead exercise areas. He also suggested that the guidance in the Code indicating that dogs should be on a short lead or under close control during the nesting season, in a wide range of settings, was too broad to be practical and might compromise efforts to target this message on areas in which it was really needed.
18. Mark Wrightham summarised the SNH paper supporting this discussion, which noted ongoing efforts to promote responsible behaviour through SNH’s national access

education campaign targeted at dog owners, which would include more prominent messages relating to ground nesting birds during 2010. The paper also noted the range of local approaches that is available to address this behaviour in protected areas, including education, regulation and wider site planning and management. George Menzies highlighted the direct reference to 'proper control' of dogs in Section 9(d) of the Act and various Forum members noted the high level of consensus implicit in the papers accompanying this item.

19. Mark Wriotham also reported that comments had been received by correspondence from:
  - a member of East Lothian LAF noting the need to consider assistance dogs, and;
  - a member of North Lanarkshire LAF noting a number of access issues in relation to sports pitches, which included dog fouling.
20. Various members noted that issues relating to disturbance of nesting birds extended beyond protected areas, including farmland and areas under game management. Alastair MacLennan suggested that the guidance in the Code was broadly appropriate and that it would be helpful to encourage dog owners to use less sensitive areas. Dave Morris endorsed the principle of positive management, including 'on lead' requests, wherever needed. Campbell Gerrard highlighted the positive benefits of dog ownership and suggested that it would be important to define sensitive sites more precisely within the broad settings identified by the Code.
21. Kevin Lafferty suggested that additional guidance and case studies might be helpful, and that FCS could work with others to take this forward. He also highlighted the need for clear and specific messages, and evaluation of the effectiveness of current messages, set in the context of a range of wider management approaches. Anne Gray concurred regarding the merits of further guidance. Andrew Bachell recognised the potential need for better targeting of the key messages and noted that joint work to address this issue within the Cairngorms National Park might provide a basis for development of further guidance.
22. The Convenor noted the practical constraints that may accompany enforcement, and acknowledged SNH's education campaign and the long-term nature of efforts to promote behavioural change.

**Action point 20/4: Secretary to develop paper to highlight key issues with regard to dogs and ground nesting birds, with input from RSPB and SKC, for discussion at next meeting.**

#### **Institute of Fundraising guidance on outdoor events**

23. The Secretary introduced a paper setting out a proposed NAF response to consultation by the Institute of Fundraising on draft guidance on *Outdoor Fundraising in the UK*, noting that some member bodies had also responded separately. He noted that the Institute was keen to encourage good practice within the sector and was encouraging interested parties to report any events that fall short of this standard through a complaints procedure operated by the Fundraising Standards Board ([www.frbs.org.uk](http://www.frbs.org.uk)).
24. In discussion:
  - Dorothy Breckenridge endorsed the need to refer to the Scottish guidance being developed by the Forum and welcomed the complaints procedure;
  - Anne Gray suggested that the NAF response could encourage greater reference to liaison with land managers and local communities;

- Geoff Robson noted that outdoor fundraising often generated substantial revenue for the organising bodies and stressed the importance of ‘putting something back’ into the care of the underlying resource, and;
- Duncan Orr-Ewing highlighted the need to spread the load by using different locations.

### **Application of Sections 11 and 12 to core paths**

25. Malcolm Duce introduced a paper which noted that Section 11 of the Land Reform Act (temporary exemptions) and Section 12 (byelaws) do not currently apply to core paths in the same way as to other land within access rights, and suggested that this technical issue could be addressed by means of an order under Section 8 to delete Section 6(1)(j). If taken forward, the draft order would be subject to a 12 week consultation and Parliamentary approval.
26. The proposal was welcomed by Geoff Robson, Bridget Jones and Kevin Lafferty. On behalf of the local authorities, Geoff Robson stressed the need to resolve this issue promptly.
27. John Mackay commented that care would be needed to ensure that the status of access along core paths was not undermined, and noted that many were also rights of way and could not be closed under Section 11. He also suggested that the deletion of Section 6(1)(j) might create an inconsistency between Section 1(7) and the temporary closure and byelaw provisions in the Act – and some Forum members suggested that the precise effect of the proposed amendment should perhaps therefore be clarified.
28. The current application of Section 11 was also discussed. While recognising the underlying technical issue, Dave Morris emphasised the need to avoid eroding access rights and suggested that informal methods would often suffice to manage access; Campbell Gerrard likewise emphasised the need to ensure that Section 11 was used only where strictly necessary. Mike Dales noted a similar potential concern but also, conversely, that the ability to close core paths in this way could facilitate their designation on some rivers. Bridget Jones and Kevin Lafferty emphasised that LLTNPA and FCS only used Section 11 when strictly needed and Andrew Bachell suggested that, with due care to ensure that the amendment was technically appropriate, this should not undermine the wider principles of Scottish access rights.

### **Other business**

#### *Proposed LLTNPA camping byelaws*

29. Bridget Jones summarised the draft byelaws that LLTNPA was proposing to introduce to regulate camping on the eastern shore of Loch Lomond, noting that issues at this location were of long standing, predating both access rights and National Park status. The proposed byelaws were to be accompanied by other action including education, improved signage, road verge alterations and semi-formal campsite provision, and would prohibit encampments outside these designated areas. Consultation on the proposals would conclude on 3 May.
30. There was some discussion of the potential displacement of problem campers to other areas. Duncan Orr-Ewing expressed support for the proposals on the basis that this would help to safeguard oak-birch woodland SSSIs on Loch Lomond, but also emphasised the need to monitor any issues that might arise on adjacent land. Bridget Jones indicated that a transition period was anticipated for suitable management measures to be established before the byelaws came into force, and expressed

confidence that the proposals would adequately manage any displacement to other areas within the Park.

31. Andrew Bachell noted that SNH had not yet reached a view on these proposals. He suggested that there may be a case for the byelaw approach and that these proposals would need to be considered in the context of wider visitor management within the Park, with regard to need and in the light of the precedent that this would establish. John Mackay suggested that this issue could be largely addressed by management but regulatory action might be appropriate in order to reinforce these approaches.
32. Dave Morris suggested that caution would be needed in adopting this approach, noting that there had been calls for similar action in other areas and suggesting that these might be difficult to counter based on the particular circumstances of different locations. He also argued that further management action, including the provision of facilities such as fire pits, could be undertaken before resorting to byelaws.

### *Scottish Planning Policy*

33. Campbell Gerrard asked for NAF members' views on the references to access in the new Scottish Planning Policy (SPP), noting that this did not specifically cite access as a material consideration; although John Mackay suggested that the SPP was based on the premise that its entire content was 'material'. Dave Morris suggested that this was a significant concern and noted the need to raise the profile of access within the planning system. Geoff Robson noted the practical challenge of condensing planning policy into a single SPP and the ongoing need to raise awareness, and that this might be taken forward with the Scottish Society of Directors of Planning. The Convenor suggested that it might be helpful to circulate a note clarifying the current position as a first step.

**Action point 20/5: SNH to circulate a note summarising the references to access in the new SPP.**

### *Boquhan House legal judgement*

34. Dave Morris noted that the appeal concerning access to the grounds of Boquhan House had been abandoned. He welcomed this outcome but suggested that conspicuous CCTV monitoring might still deter access to some extent.

### **Dates of next regular meetings**

35. Wednesday 19 May and Wednesday 17 November 2010, both at Battleby. Date of annual joint meeting to be determined.

### **Summary of action points**

**20/1: SNH to bring paper on electric fencing to next meeting.**

**20/2: Secretary to develop proposals for a new joint meeting format in conjunction with access authorities.**

**20/3: SNH to highlight the potential importance of access across disused rail viaducts, and the Scottish access context, with BRB (Residuary).**

**20/4: Secretary to develop paper to highlight key issues with regard to dogs and ground nesting birds, with input from RSPB and SKC, for discussion at next meeting.**

**20/5: SNH to circulate a note summarising the references to access in the new SPP.**