

Lowther Park Enduro Bike Trail Operating Agreement Autumn 2011

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1. Purpose of the operating agreement

The purpose of the operating agreement is to:-

- Support individual trail users permits.
- Help to deliver the policies and business rules of Forestry Commission England
- Provide additional information on the development and management of the Enduro Bike Route
- Set out standards of construction and maintenance.
- Clearly define the roles and responsibilities of the Forestry Commission and the Trail Users.
- Establish arrangements for communication between the Forestry Commission and the Trail Users.
- Make provision of periodic review of the agreement.

2. Background

Forestry Commission England (FCE) manages the national forest estate including Lowther Park, Uldale and Dent Forest in accordance with the England's Trees Woods and Forests strategy. This includes economic, environmental and social objectives.

3. Historical Overview

Following an approach by a number of Enduro Bike users there has been a permitted Enduro Bike trail in Lowther Park since 2004.

The agreement has stayed the same since the original permit with a maximum of 25 riders permitted at any one time. Each rider pays a nominal fee and provides copies of insurance, MOT and agrees to a code of conduct which is part of an individual permit which each rider signs. Each rider attends a health and safety meeting at the beginning of a 2 year permit and agrees to wear an identifiable high viz jacket whilst riding.

The route of the trail is agreed on the ground and defined on a map having been tracked using GPS. At points where the trail crosses other routes signs are erected warning other users of the presence of motor bikes and warning trail users of other users. These signs have been regularly vandalised and it is now recognised are ineffective.

Over the life of the facility there have been no accidents reported to the FCE neither have any been heard about.

When the facility was first opened there were a number of complaints from regular walkers who complained that agreeing such a trail would increase the illegal bike usage. Over the years illegal bike use has risen and fallen. FCE is part of a group of land owners who are liaising and working with the police to tackle this problem. There have been a few success and the police have made a few arrests and confiscated a couple of bikes. However the problem does continue although the level of complaints by walkers has reduced it is not known whether this reflects lower bike usage or for example a reluctant acceptance by other users.

During 2009 there was a concerted effort to catch up on facility safety checks with checks being carried out quarterly. The outcome of these checks along with the review of the Forest Design Plan for Lowther Park, Uldale and Dent prompted a review of the Enduro Bike facility.

This Operating Agreement was reviewed by Gareth Browning, Area Manager West Cumbria in Autumn 2011.

4. Description of the Permitted Area

The permitted Enduro Bike route extends to approximately 15km of trail forming a loop through the forests of Lowther Park, Uldale and Dent and is shown on Appendix 2.

The landscape through which the trail is routed ranges from mature conifer to open grassy habitats. For more information see the Forest Design Plan at www.forestry.gov.uk/lowtherpark .

5. Roles and responsibilities

Forestry Commission England (FCE)

- FCE is responsible for the woodland management including the safety, environmental and social impact of the Enduro Bike Route.
- The FCE Facility Manager is Gareth Browning who can be contacted on 017687 76816 or email gareth.browning@forestry.gov.uk.
- As FCE makes a charge for each permit this facility must be considered a commercial recreation activity which is subject to fall under the remit of the HASAWA 1974 so the duty of care is higher than that under informal recreation activity management.
- FCE will therefore have a role in ensuring that industry operating standards for the management of the trails are agreed and are in place. The best available standards are those prepared by the FCE. These are widely accepted as the best available and may in due course be adopted by the mountain bike community/industry in England/UK.

The Trail Users

- Trail users must abide by their individual permits, the Code of Conduct and this Operating Agreement.
- Give their time freely to contribute to the maintenance and upkeep of the trail.
- Feedback health and safety concerns and issues such as fallen or leaning trees or erosion to Facility Manager.
- Trail Users are responsible for their own conduct and safety and for ensuring that, so far as they are able, their activity does not impact the safety of other forest users. This includes the way they ride, the wearing of correct protective clothing and the maintenance and safe use of their bike.

6. Desired outcomes

The desired outcomes in the operation of the Enduro Bike Trail are:-

- To ensure that users are safe.
- To provide an enjoyable experience.
- To provide facilities which are environmentally sustainable and legally compliant.
- To reduce illegal motor bike usage.
- To protect the safety and recreational experience of other forest users.

These outcomes will be achieved through:-

- FCE and Trail users managing the Trail to an acceptable standard and that the facilities are fit for purpose as defined by FCE.
- FCE and Trail Users making sure that the hazards are clearly identified before users first use the trail.
- FCE and Trail Users agree that all work carried out must comply with the current relevant legislation and examples of best practice eg planning, habitats legislation, controlled activities regulations, Water framework directive, Forest and Water guidelines.

FCE and Trail Users must be able to show and justify what they have done, when maintaining and monitoring the trail and through proper documentation.

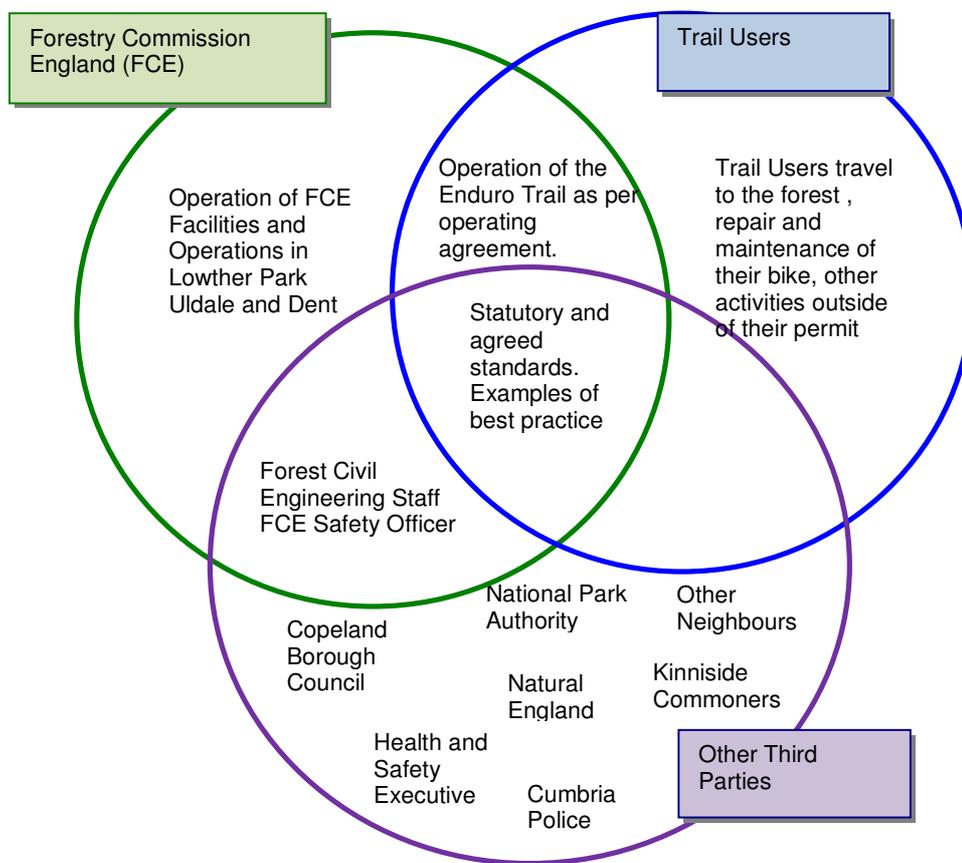
7. The Operating Arrangements

The relationship between FCE and Trail Users is that of a landlord and permit holder. The permit holder is not an employee or a contractor to FCE. This means that while FCE remains an employer and is covered by Health and Safety legislation, the permit holder is an

individual, and is not involved in a work activity relationship with FCE. However Forestry Commission England’s duty of care is to the permit holder, FCE employees, neighbours and members of the public who may be affected by the permit holders activities.

The operating agreement sets out management responsibilities under 3 categories:

Figure 1
Diagram of Management Interactions



8. Site security and closure

FCE is responsible for managing the security of the forest and deciding when the trail should be closed.

The trail may be closed from time to time to protect Trail Users safety during for example harvesting operations, following severe weather or if there are multiple dangerous trees to make safe.

In the event that FCE decides to close the trail the FCE Facility Manager will notify all Trail Users by email as well as erect signs at the entrances to the closed section of the trail. It is the Trail users responsibility to abide by the closure.

If the trail is closed for more than a week in each 12 month period FCE agrees to extend all Trail Users permits by the period of closure.

9. Communications and review procedures

The Facility Manager will arrange a half day review meeting at the beginning of each two year permission cycle.

Adhoc meetings will be arranged as and when necessary for example, following major harvesting.

10. Managing Health and Safety

Insurance

- Each trail user is required to take out and maintain at least Third Party insurance.
- The Forestry Commission is self insuring.
- When vehicle insurance is renewed during the time scale of this permit copies of insurance certificates are to be sent to the Facility Manager.

Risk assessment

- The Forestry Commission will draw up and share with Trail users a risk assessment for the trail, its use and maintenance. Once agreed each trail user will be provided with a copy of the risk assessment as part of a Trail Users Pack.

Accidents and Incidents

- All accidents and incidents must be reported to the Facility Manager as soon as it is practical ideally within 24 hours so that an investigation may be carried by FCE.

Responsibilities Under RIDDOR.

- Under the Reporting of Injuries, Disease and Dangerous Occurrences Regulations 1995 (RIDDOR) the FCE may have to report an accident to the Health and Safety Executive.

New Rider Familiarisation

- New riders must complete a familiarisation ride out with one of the Nominated Trail users identified in section 13 before riding the trail alone.

11. Planning, Design, Construction and Maintenance

FCE and Trail users agree to collaborate on trail planning & design, construction and maintenance to ensure that the Enduro Trail is of a consistent standard and design and is fit for purpose. To that end both parties agree to :-

- Use standard GB wide facility grading and safety information.
- Adopt standard design and construction standards.

The overarching legislation applicable to this operating agreement is the CDM Regulations 2007. Due to the absence of industry standard, Forestry Commission England and other interested parties have developed guidance that ensures cycle trail construction design and management, meets the requirements of the CDM Regulations. Other guidance also exists which has been developed in conjunction with the Health & Safety Executive in relation to Forest Harvesting activities. The principles contained in this publication are equally transferrable to construction and maintenance of Cycle trails and associated infrastructure.

It is against this background that FCE and Trail users adopt the following publications as standard guidance to fulfill their responsibilities under the CDM Regulations 2007. This is split between management issues & the Technical specifications applicable to cycle trail construction and associated infrastructure. However it is recognized that the specification has been developed for pedal cycles and mountain bikes and not fore Enduro Motor Bikes so will not necessarily be applicable in all circumstances. The documents below will therefore be used as starting points for guidance.

- FCE Operational Guidance Booklet 40 Managing Construction.
- FCE Operational Guidance Booklet 37 Cycle trail management.

- Managing Health & Safety in Forestry (Equally applicable to Cycle trail construction and maintenance)
- Managing Public Safety in Forestry (Equally applicable to Cycle trail construction and maintenance)
- Forest and Water guidelines 4 edition
[http://www.forestry.gov.uk/PDF/fcgl002.pdf/\\$FILE/fcgl002.pdf](http://www.forestry.gov.uk/PDF/fcgl002.pdf/$FILE/fcgl002.pdf)

Technical Specifications

- Upland Path work construction standards for England
ISBN 1 85397 062 x
UPAG publications this manual provides guidance on pathwork techniques and how the basic principles of upland path management should be used.
Read on line at <http://www.snh.org.uk/publications/on-line/heritagemanagement/uplandpathwork/index.shtml>
- **Path Bridges - Planning, Design, Construction and Maintenance Manual.**
To be used for guidance on construction of bridges and timber features on the trails for example wall rides timber hucks etc.
<http://www.pathsforall.org.uk/outdooraccess/article.asp?id=141>

The relevant guidance and best practice adopted under this agreement will be subject to an annual review.

FCE reserves the right to inspect build standards and constructional activity. Remedial work will be requested prior to the completion of a trail project or within 6 months of the work being completed. FCE reserves the right to carry out remedial or removal work.

12. Definitions of Maintenance and New Construction

Both Parties agree to the following definitions.

Maintenance refers to repairing fabric of existing construction, and is replacing like with like. This will be the primary responsibility for all trail users to work together carrying out activities such as surface maintenance, simple drainage works, brashing and pruning.

Upgrade / Reconstruction refers to work where no virgin ground is cut. It can involve changes to the specification and therefore grading of the trail. This must be planned and agreed in advance between the trail users and FCE. No upgrade or reconstruction is to take place without the approval of FCE Facility Manager.

New construction refers to work carried out to construct a new trail with associated new specification and grading. No work in respect of new construction shall commence without the full involvement and approval of the FCE Facility Manager.

13. Inspection Regimes

FCE is responsible for managing the risk assessment for the trails and associated structures.

Inspections will be shared between Trail users and FCE staff . Only staff and trail users who have completed the Trail Checking Course will be authorised to carry out 3 monthly trail checks.

Subject to the completion of such training the persons listed below will be responsible for carrying out trail inspections

- FCE Staff - Gareth Browning, Benjamin Quarcoo, Malcolm Armstrong
- Trail users - Chris Jones, Dave Rothery, Colin Atkinson and John Moore

The trail will be inspected every 3 months as detailed in the table below

Inspection to be Completed By	Who Caries out the Inspection
April 1 st	FCE Staff
July 1st	Trail Users
October 1st	FCE Staff
January 1st	Trail Users

Each Inspection will be recorded on the Inspection form shown in Appendix 3 and shared with all trail users via email and the Trail Webpage. All remedial work should be photographed as a record of the survey and work being completed.

Remedial work will be carried out by FCE and Trail users as table below

Type of Work	Who To Cary out
Felling Trees, use of chainsaw.	FCE Staff
Brushing and pruning up to 2m high	Trail users
Minor Trail surface work using local stone and hand tools	Trail users
Major Trail surface work using machines	FCE Staff

The Forestry Commission will reserve the right to carry out independent checks of the trails at any time.

Trail riders who are nominated and qualified to carry out trail checking may ride the trails for the purpose of trail checking out with the normal restrictions on hours detailed in the Code of Conduct with the exception that no riding is allowed between dusk and dawn.

All trail users will be responsible for exception reporting of hazards such as leaning or windblown trees to FCE via email or phone. To facilitate this, trail users, will be provided with a trail map which has numbered sections which they should refer to when reporting new hazards to FCE.

14. Contract Working

No trail user shall authorise or arrange any contractor to work on the trail or bring onto the trail any piece of machinery without the written permission of the Forestry Commission Facility Manager.

15. Volunteer working

Within the immediate vicinity of the trail, FCE has sole responsibility for ensuring that Trail Users are provided with the same level of health and safety protection as an employer / employee relationship, irrespective of whether there are strict legal duties. Risk assessment should be carried out and preventative measures taken. Volunteers must not use powered tools or equipment that requires a level of professional competence unless appropriately qualified and approved by the Facility Manager eg chainsaws, brush cutters, powered wheel barrows, mini-diggers, dumper trucks, etc.

16. Forest and tree management

FCE has sole responsibility maintenance and thinning of the forest estate. FCE is responsible for clearance of any storm damaged trees.

17. Trail and facility decommissioning/restoration

FCE is responsible for the decommissioning / restoration of the trail.

18. Code of Conduct

Trail users agree to abide by the Code of Conduct provided in Appendix 4.

19. Events

There shall be no events organised under the auspices of this Agreement. Neither do any of the permissions issued to Trail Users confer the right to run or organise motorbike events on FCE land

20. Dealing with Incidences

All accidents or near misses should be reported to the Facility Manager as soon as it is practical to do so. The reports should be emailed and contain details about the date, time, location, people involved and any actions taken or injuries sustained.

21. Trail Map - See separate file

22. Trail Inspection Form - See separate file

23. Trail Users Code of Conduct

- The forest speed limit of 15 mph must be adhered to at all times.
- The Trail is to be kept in a clean and tidy condition free of litter.
- Lightweight fluorescent high visibility vests must be worn at all times
- Bikes must have fully operational lights that must be illuminated at all times
- Bikes must be maintained in accordance with the manufacturer's guidance and every effort must be made to suppress the noise levels of individual bikes.
- A valid permit disc must be displayed by the trail user on their bike
- Trail users must ensure that they have a valid MOT, Road Fund Licence, a minimum of Third Party Insurance and Vehicle Ownership Documents.
- Trail users must slow down and give way to all other forest users and take care to avoid any injury or damage to persons or property in the exercise of this permission.
- Other forest users must be treated with respect
- Trail users must take reasonable care not to disturb wildlife or agricultural livestock.

- Trail users must abide by the Trail opening and closing times as indicated in the table below.

Day	Trail Status
Monday	Closed
Tuesday	Open 9am to dusk
Wednesday	Open 9am to dusk
Thursday	Closed
Friday	Open 9am until 5pm
Saturday	Closed
Sunday	Open 9am until dusk
No night time riding is permitted	