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[REDACTED]
IJ/JO
6th October, 2014
[REDACTED]



PARC CENEDLAETHOL ERYRI
Ile i enaid gael llonydd
SNOWDONIA NATIONAL PARK
one of Britain's breathing spaces

Ms Nicola Jones
Deputy Coroner for North West Wales
Pritchard Jones & Lane
37 Y Maes
Caernarfon
Gwynedd, LL55 2NN

Dear Madam,

Your Regulation 28 Report to prevent future deaths arising from the inquest into the unfortunate and tragic death of Dylan Arwel Rattray has been passed to me as the Monitoring Officer for the Authority and I confirm for the sake of clarity that I am instructed to respond fully thereto.

The Report highlights three main areas of concern and I shall respond to each area individually in due course. Prior to doing so however I consider it will be useful for you to understand Snowdonia National Park Authority's statutory purposes and any duties arising therefrom.

Snowdonia National Park Authority was established by the Environment Act 1995 as a single purpose local authority. It has the following purposes as defined by the Act:

- To conserve and enhance the natural beauty, wildlife and cultural heritage; and
- To promote opportunities for the understanding and enjoyment of the special qualities of the (National) Park by the public.

The Act goes on to say that in pursuing National Park Purposes the National Park Authority shall seek to foster the economic and social wellbeing of local communities within the National Park and shall for that purpose co-operate with local authorities and public bodies whose functions include the promotion of economic and social development within the area of the National Park.

Additionally under the Environment Act 1995 the Authority is the local planning authority for the whole of the National Park. The Authority is therefore responsible for the production of the Park Management Plan, Local Development Plan and for the determination of planning applications.

Whilst there are other statutory duties applicable to the Authority, the main one of relevance to this matter is the legislation appertaining to the Countryside and Rights of Way Act 2000 (hereinafter referred to as CROW). This Authority has responsibility under CROW as the "relevant authority" for areas defined as "open access land". I can confirm that the entire route followed by Mr Rattray and [REDACTED] on the day in question is open access land.

[REDACTED]

However, this does not extend to responsibility for personal safety and responsibilities under CROW include issuing short or long term restrictions and exclusions i.e. for nesting birds / stock management. The Authority also has responsibility for issuing longer term restrictions for the prevention of danger to the public that are man-made e.g. pollution / unexploded munitions / fire etc. There is also the power if the Authority so wishes to provide stiles and gates for accessing and egressing CROW access land.

CROW provides the following rights set out in Section 2(1) of the ACT:

“2 Rights of public in relation to access land.

(1) Any person is entitled by virtue of this subsection to enter and remain on any access land for the purposes of open-air recreation, if and so long as—

- (a) he does so without breaking or damaging any wall, fence, hedge, stile or gate, and*
- (b) he observes the general restrictions in Schedule 2 and any other restrictions imposed in relation to the land under Chapter II.”*

CROW does however specifically restrict any occupiers' liability and in order to assist you I copy below the relevant section:

“13 (2) In section 1 of the Occupiers' Liability Act 1984 (duty of occupier to persons other than his visitors), after subsection (6) there is inserted—

“(6A) At any time when the right conferred by section 2(1) of the Countryside and Rights of Way Act 2000 is exercisable in relation to land which is access land for the purposes of Part I of that Act, an occupier of the land owes (subject to subsection (6C) below) no duty by virtue of this section to any person in respect of—

- (a) a risk resulting from the existence of any natural feature of the landscape, or any river, stream, ditch or pond whether or not a natural feature, or*
- (b) a risk of that person suffering injury when passing over, under or through any wall, fence or gate, except by proper use of the gate or of a stile.*

(6B) For the purposes of subsection (6A) above, any plant, shrub or tree, of whatever origin, is to be regarded as a natural feature of the landscape.

(6C) Subsection (6A) does not prevent an occupier from owing a duty by virtue of this section in respect of any risk where the danger concerned is due to anything done by the occupier—

- (a) with the intention of creating that risk, or*
- (b) being reckless as to whether that risk is created.”*

Turning to the management of Snowdon in general there are in fact six main paths to the summit of Snowdon which are on legal rights of way. Although these are in fact the legal responsibility of Gwynedd Council this Authority does in fact manage and promote these main paths on behalf of Gwynedd Council. However, all walkers on these six main paths are reasonably expected to take responsibility for themselves and we would also encourage them to use adequate footwear, clothing and equipment and to have undertaken some form of pre-route planning before setting out. With this in mind the Authority puts significant time and resources into promoting mountain safety messages and specifically targets the “pre-visit” phase by providing precise route descriptions for all of the main paths referred to above.

The area in question where Mr Rattray fell to his death is not in fact in the ownership of the Authority but rather is owned by the Baron Hill Estate. Neither is the area in question on one of the six main paths that this Authority actively maintains and promotes.

Having provided you with some background information that I hope you will find of use I shall now respond in detail to your report.

You have raised three matters of concern in your report and I shall now deal with each of these separately:

- 1. Whilst it is acknowledged that Snowdon is an inherently dangerous terrain which attracts millions of walkers of all abilities every year without incident in most cases, I am concerned that the Snowdonia National Park Authority have chosen not to follow the advice of an organisation such as the Llanberis Mountain Rescue Team which has been given in writing on two occasions detailing how the risk of future deaths and serious injury could be reduced.**

Response:

Llanberis Mountain Rescue Team first wrote to the Authority on 18th April 2012 detailing its concerns following the death of a walker in poor weather conditions. The walker in question was both experienced and well equipped. It is perhaps unfortunate that no representative from this Authority was called to give evidence at the inquest to Mr Rattray's death as further details could have been provided at that time.

Following said letter a meeting took place with a representative from the Llanberis Mountain Rescue Team on 22nd May 2012. At that meeting the following was agreed:

- 1) A direction pillar was to be placed between the summit and the back of Hafod Eryri so that walkers know the location of the Watkin Path. I have attached a photograph (marked No. 1) which confirms that this work was subsequently undertaken.
- 2) Some improvement may be needed to the top of the Watkin Path to provide more definition. However this would necessitate the moving of the definitive right of way.
- 3) Following on from the above, landscaping the south-east face of the summit to remove where possible path braiding and erosion scars.
- 4) To further discuss the practicality of building some form of low level wall surrounding the area of the summit under the trig point.

At that meeting it was made clear that no remedial work on the East Ridge route would be undertaken as although it is not a managed path and not a definitive Right of Way it is none the less recognised as part of the Snowdon Horseshoe in guidebooks etc.

The directional pillars were sited on Snowdon in May 2013. Following discussion with the Mountainsafe Partnership (a partnership set up to foster safety on Snowdon and whose membership consists of the British Mountaineering Council, Mountain Training, North Wales Mountain Rescue Association, Plas y Brenin, North Wales Police, Llanberis Mountain Rescue Team as well as other interested parties), landowners, the

Local Access Forum together with additional significant input from the Llanberis Mountain Rescue Team - 6 of these directional Pillars were sited on Snowdon at agreed specific points where evidence suggests that navigational errors were commonly made. Although much consultation was undertaken beforehand this work in itself was regarded as unnecessary by some "purists" who feel that Snowdon should not be signposted in this way and there has been one incident where one of the pillars was deliberately defaced. Following siting of the same there followed an internal meeting and at that time a decision was made to hold a 12 month review into the effectiveness of the siting of all the directional pillars. Furthermore the process to change the lines of two public Rights of Way was initiated by the Authority in conjunction with Gwynedd Highways some time ago and is currently in its consultation phase.

The Llanberis Mountain Rescue Team were kept informed during this time and no further letter was in fact received until 23rd April 2014 (dated 20th April 2014) and was written following the unfortunate death of Mr Rattray. This letter was unexpected in its contents as the Authority had implemented an action plan that had been agreed with Llanberis Mountain Rescue Team. This Authority has considerable experience and expertise with regard to visitor safety management principles in the uplands and in reality the nature of the terrain and associated activities does not allow us to be overly prescriptive. Any attempt to break up the East Ridge path in particular would be largely futile as it is a well described route which is widely available in the public domain through numerous scrambling and walking guide books and websites and so would quickly be re-established. In addition sheep and wild goats also populate this area as well as many other areas in Snowdonia and are continuously creating small paths and tracks. This is part of the reason why it is an accepted upland management principle that paths such as these are not broken up.

Between the two incidents referred to in this letter it must be remembered that approximately one million people had ascended and descended the mountain on foot. Although the accidents occurred in a similar area the circumstances were markedly different with weather conditions and visibility poor on the day of the 2012 incident. This accident was deemed to have occurred due to navigational error by inadvertently straying from the East Ridge. The weather conditions at the time of Mr Rattray's accident were, by contrast, considered to be perfect.

I have attached a map with this letter (marked "Map A") that shows the likely route taken by Mr Rattray and [REDACTED]. The final stages of their route is shown in greater detail on the further map (marked "Map B") which is an inset map with aerial photography captured in 2013. The hatched area shows the area of land that was discussed for possible screening in 2012.

As can be seen from the likely route and subsequent possible line taken by Mr Rattray and [REDACTED] it is highly unlikely that this had any impact whatsoever in the tragic accident that was to follow. It is likely that Mr Rattray and [REDACTED] initially followed the East Ridge. As previously stated this is a recognised path but not one that is maintained or promoted by this Authority. Had they continued along the East Ridge they could have made their way safely to the Watkin Path. However, this would not have led to their start point of Pen y Pass but rather to Nant Gwynant. From there they could however have caught the Snowdon Sherpa that would have taken them back to

Pen y Pass. Alternatively they could have continued along the ridge over Lliwedd and down to Llyn Llydaw, returning to Pen y Pass to complete the Horsehoe. For whatever reason however, it appears that Mr Rattray led in an attempt to cut across to Llyn Glaslyn, and by doing so left the relative safety of the East Ridge route that then led to such tragic consequences.

- 2. The deceased in this inquest was a sensible, fit, hardworking young man, not a foolhardy risk taker. He followed what he thought was an established path that would take him down to Glaslyn. Had the Park taken the previous advice of the Llanberis Mountain Rescue Team to break up these misleading paths then this death would not have occurred as the deceased would not have attempted to descend the route that he took, which led to his death.**

Response:

The Authority takes issue with this point of concern. I attach a paper by [REDACTED] and [REDACTED] entitled "Mountain Rescue Incidents on Snowdon". This research shows that males were far more likely than females to be involved in incidents and that both Mr Rattray and [REDACTED] actually fell into the category most likely to be rescued. As a result the Mountainsafe Partnership worked to develop a smartphone app specifically for this age category because they are at a higher risk of being involved in incidents.

The Authority's Senior Warden for the North of the Park actually spoke to both Mr Rattray and [REDACTED] as they set out on their walk from Pen y Pass. The conversation occurred at approximately 2pm. They were standing looking at a map of Snowdon by the Pay and Display looking at the main footpaths. [REDACTED] remembers the conversation as he had not heard many walkers conversing in Welsh that day and he enquired where they were headed. They informed him that they were going to do Crib Goch but that they weren't sure where to leave the PYG track in order to do Crib Goch. [REDACTED] replied "Bwlch y Moch, by a dry stone wall" and remembers saying next "Are you sure you know what's ahead of you?" One replied that he did. [REDACTED] then asked whether they were going to the summit and the response from one was "no, it's too busy, and I've been to the summit before." [REDACTED] then asked "What will you do then – return down the PYG from Bwlch Glas?" Both replied that this was what they would be doing. Although it was quite late in the day to begin such a walk compared to the many hundreds who had traversed the mountain earlier [REDACTED] assessed that there was plenty of daylight hours left for the planned route. I attach a further map (marked "Map D") which shows the planned route as explained to [REDACTED] and the actual route subsequently followed.

On the question of equipment [REDACTED] noted that one was wearing trainers and that both had small rucksacks. It later transpired that neither had a guide book, map or compass. The possession of such simple equipment would no doubt have informed them that there was in fact no suitable route from the East Ridge to Llyn Glaslyn. Having talked to a number of experienced walkers all have expressed an opinion that it should have been clear, particularly given the extremely favourable weather conditions on the day and the obvious nature of the terrain, that to attempt what they did was in fact what could only be categorised as an extreme risk. This is perhaps borne out by the testimony of [REDACTED] at the Inquest. [REDACTED] who was following Mr Rattray, asked Mr Rattray on no less than three occasions for him to turn back.

The third and final request was only made about one minute before Mr Rattray's fall. Unfortunately Mr Rattray chose not to acquiesce to his friend's request.

As explained previously whether or not work had been undertaken to the hatched area on Map B was irrelevant to the cause of the accident as it appears that Mr Rattray and [REDACTED] had successfully navigated the East Ridge along the established path past the area in question before then deciding to veer off the East Ridge to attempt to get to Llyn Glaslyn. As previously explained there is no recognised route for such an attempt and being in possession of such simple tools as a compass and map would have ensured that they were fully appraised of the risk that they were about to take.

3. **It is acknowledged that the Park not only has to consider budgetary constraints but also the difficult and dangerous terrain where improvement works would be required. However, unless robust and permanent measures are taken to ensure that walkers cannot access what they believe to be established paths at the Summit of Snowdon (thereby providing a mistaken sense of security) when such paths peter out and leave walkers in perilous positions, then I am satisfied that there will be repeated deaths in these circumstances on Snowdon.**

Response:

The point should be made at the outset that this is not about budgetary constraints. I attach for your information Visitor Monitoring Figures for Snowdonia National Park for 2013. This shows the number of visitors to Snowdon dwarfs all other mountains in the Park. As such the Authority has chosen to try and direct visitors along the prescribed Rights of Way. In doing so visitors can expect to encounter a challenging day but along paths that are actively maintained. The Authority complies fully with the Visitor Safety in the Countryside Group and an extract of the Group's publication including the principles governing such activities are also attached to this letter. As can be seen therefrom it is one of the principles that:

"Where risk arises from natural features, such as cliffs, rivers, streams, lakes, falling trees and rocks, it is not desirable to restrict access or take other measures that diminish the amenity simply from fear that an accident may result in prosecution. People should be allowed to participate in leisure pursuits such as bungee jumping and water sports that are potentially hazardous."

The case of Tomlinson v Congleton Borough Council – Brereton Heath Country Park is mentioned where Lord Hoffman's opinion was that:

"it will be extremely rare for an occupier of land to be under a duty to prevent people from taking risks which are inherent in the activities that they freely choose to undertake upon the land. If people want to climb mountains, go hang-gliding or swim or dive in ponds or lakes, that is their affair. Of course the landowner may for his own reasons wish to prohibit such activities. He may think that they are a danger or inconvenience to himself or others. Or he may take a paternalist view and prefer people not to undertake risky activities on his land."

This however is not an option on Snowdon as it is open access land as defined by CROW but this is perhaps reflected in the fact that CROW has intentionally limited liability for natural features.

The above does not of course mean that the Authority does not take visitor safety seriously but the reality is that all mountains have false paths and walkers should be aware. Referring once more to the report entitled "Mountain Rescue Incidents on Snowdon" it can be seen that overall the accident rate averaged over the period was 69 hours for every million hours spent on the mountain but that if uninjured callouts are excluded then this falls to 30 for every million hours on the mountain. This is in fact a lower rate than for mountaineering in general (40), horse riding (100) and football (1300). In fact it is comparative to the sport of fishing (30). Such an accident rate is perhaps a testimony to the hard work put in by the staff of this Authority in maintaining the six main routes, by the Park Wardens in advising members of the public and by the significant amount of information that the Authority provides freely via its website. This does not of course mean that the Authority is complacent as to the future. The challenges of Snowdon are in many ways unique from the sheer number of visitors, to the challenging conditions that the Authority's workforce face in maintaining the maintained routes in suitable condition. The provision of signage and re-routing the Watkin Path will hopefully ensure walkers are provided with more information and a clearer route. What is almost certain however is that these measures would not have affected the outcome of this unfortunate accident.

I trust that the above adequately explains the Authority's position in this unfortunate incident. If you require any further clarification please do not hesitate to contact me. Alternatively, if you wish to see the area for yourself I can confirm that one of our Wardens for Snowdon would be more than happy to accompany you on any fact finding visit.

Yours faithfully,

A large black rectangular redaction box covering the signature of the Director of Corporate Services.

Director of Corporate Services.

Encs.