
CAIRNGORMS LOCAL OUTDOOR ACCESS FORUM

Title: Update on Outdoor Access Casework

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Purpose

To update the Forum on casework concerning upholding access rights and outdoor access casework.

Background

This paper forms the review of outdoor access cases which are being dealt with the Park Authority access staff. The numbers of the cases (e.g. Case 1) relate to the first column (No.) of the attached spreadsheet (2006 09 05 Appendix Reporting Sheet)

OVERALL REVIEW OF STATUS

Status	Number of issues
Live	38
Closed	25
Dormant	2
Pending	5
Out of scope	3

KEY LIVE CASES

Cases 5 - 7 – these cases have been brought to our attention by the Community Council, Sustrans, SNH and several members of the public. It is a complex case involving a major developer; the scale of the problem is large and cuts across some significant community access routes around a busy and growing town. One meeting was held earlier this year with a land owner representative focusing on the golf course issue but it is clear that matters have not yet been resolved as complaints are still filtering through. *It is anticipated that this will be a case which will take some time to resolve in its entirety.*

Cases 19 - 22 – these cases concern locked gates and a stile. Two of the issues have been partially resolved by the putting in of wicket gates which is good progress, but there is still some way to go to enable access by horse-riders, cyclists and non-motorised wheeled vehicles – such as child’s buggies. *Intervention by a CNPA Board member to assist these cases to resolution has been agreed.*

Cases 24 - 25 – this case concerns signage (“private – no access”) on tracks and routes on a small estate, and privacy concerns in the immediate vicinity of the main house and a private lodge. There has been a meeting with the land owner to discuss these issues, and a letter written to him requesting removal of the signs with suggestions of wording for replacement signs in the direct vicinity of the private areas which fall outwith access rights. *The land manager has not yet responded to the Park Authority regarding these proposed actions.*

Case 26 – this case concerns a “no dogs” sign on a farm track down to and along the river. Following a meeting with the land manager it was agreed that it was appropriate to encourage visitors to keep their dogs on leads due to the narrow corridor along which stock would be encountered. *The land manager did change the signage but it remains somewhat ambiguous and Park Authority staff have agreed to offer up templates of better quality signs.*

Cases 60, 62 - 64 – the main issue here is access to water which the Forum had the opportunity to advise on at the last Forum meeting in June 2006. The Park Authority is now working with SNH who are developing draft interim guidance for the site, and once that has been concluded to go forward to a meeting with the estate and users to promote it.

CASE CLOSURE

So far **25 out of 73** cases have been resolved and **closed**. These closed cases will remain on the spreadsheet until the end of the operational year when a fresh sheet will be started; live/pending and dormant cases carried forward and closed cases dropped. The following is a brief account of closures:

Case 1 – this case involved a sign brought to the attention of CNPA access staff by a member of the public questioning its compliance with the Code. On investigation it was clear that the sign is in fact Code compliant. Significantly, no actual conflicts or confrontations have been brought to light, a strong indication that access on the ground is not problematic and occurs in harmony with the recreational activity under question.

Case 8 – this case involved a report of ‘unfriendly’ access sign(s) in the vicinity of some path work. At the time of the site visit, no actual signs were found in the location due to the fact that the contractors working on site had completed the work, and all signage had been removed (apart from a few which did not breach access legislation).

Case 13 – this case concerned a field that had been ploughed and in the process a beaten path across it to an ancient monument was obliterated. However the route was not blocked by the fact that the field was ploughed and the field itself has a history of being under differing types of land management over the years e.g. plough, crops, grass etc. Most significantly a more readily accessible alternative exists in close proximity.

Case 28 – this case concerned advice-based, preventive work aimed at encouraging a land manager not to implement proposed plans that would have curtailed access rights. The matters under discussion were the extent of privacy and what would constitute a garden. CNPA advice was communicated in a letter following a site visit and meeting. At the

moment we assume the case to be closed but if in the future changes are made that are not consistent with access rights, it will be re-opened.

Case 34 – this case concerns a house that was built several years ago right next to a farm track. The garden of the house extends across the track and now quite clearly this section of track falls within its ‘reasonable’ privacy zone and is outwith access rights. The visible track itself peters out beyond the house although a route still exists down to and along the adjacent river. An alternative route has been provided, albeit not well sign-posted.

Case 42 – this issue was raised as a query about the rights and responsibilities inherent within the Act by a local police officer. However there was a potential access issue which needed a quick investigation. This was done and resolved rapidly with the intervention of a Forum member!

Case 49 – this case arose out of a complaint from an outdoor activity provider about a well-used route (a right of way) in an area of open moorland being blocked by an electric fence enclosing stock. The stock appeared to be young cattle that were rather frisky and intimidating to pass. On investigation it was clear that the electric fence did have means by which the public could pass (an insulated opening) and that the stock had already been removed to a more enclosed field off the route. It was concluded that the case could be closed but that a ‘watching brief’ would be kept on developments next year.

Case 61 – this case was brought to our attention by a neighbouring access officer who had in turn received notification from a member of the public. The immediate concern was that a barbed wire fence was a potential hazard across an alleged access route. However it was clear that fence was for stock control purposes and was unlikely to impact on access takers.

Cases 29 and 45 – these have been closed as no further information was forthcoming from the original complainants upon request and on the basis of insufficient information (location etc) the cases could not be progressed

Miscellaneous cases (numbers 14, 18, 48, 68, 70 and 72) – these have been resolved by advice given over the phone and often (but not invariably) backed up in writing or email, often accompanied by copies of the Code; the Guide to Occupiers Liability; various codes of good practice pertaining to specific activities and reference to SRPBA publications! In many of these cases, a steer regarding the rights and responsibilities of the land manager and recreational user has been a key to further understanding and allowed people to go away better equipped to deal with access issues if and when they arise in the future.

LOCATION

Below is a list of community council areas and the number of access cases within. The numbers are based on **all** issues received since implementation of legislation (Feb 2005) and have been grouped into 'cases', based on individual land management units i.e. each farm, estate, golf course, development plot or street. Therefore if 3 separate issues are raised on one estate, for the purposes of these figures it is recorded as one access case. The 73 issues raised to date relate in reality to 45 land management units (or cases).

Community Council Area	Number of cases
Aviemore	6
Ballater	5
Boat of Garten	2
Braemar	1
Carrbridge	4
Donside	1
Dulnain	1
Grantown	2
Inveravon	1
Kincraig	5
Kingussie	4
Kirkmichael and Tomintoul	1
Kirriemuir Landward East	1
Laggan	3
Mid Deeside	1
Nethybridge	4
Newtonmore	3
TOTAL CASES	45

TYPES OF ISSUE

We have not yet finalised a system of recording issues into 'types' and ensure that those types will fit into the fields of our database recording system CAMS (Countryside Access Management System). However the table below represents the direction in which we are moving in our recording of issues. Again, all the individual issues logged since Feb 2005 are included in the total number.

Issue Type	Number of cases
Obstructions (includes physical barriers such as gates, fences, stiles, ploughed fields, dangerous animals, cattle-grids)	24
Information (includes signs, leaflets, other written information)	17
Behaviour (includes confrontation, on the	9

ground conflict	
Groups (includes organised events, activity groups e.g. DofE, congregational camping)	7
Legal (includes rights of way, query over sections of the Act, planning, path agreements)	8
Privacy (queries about curtilage, reasonable privacy etc)	5
Water (any water based issues)	3
TOTAL NUMBER	73

CASE PRIORITY

The priority of cases is as follows:

Priority	Number
Higher	28
Lower	26
No further action	19
TOTAL	73

Recommendation

Comments are invited from Forum members as to how useful they find this summary and its format.

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