

The Functioning of a Local Access Forum: Preliminary findings of a study of the Cairngorms Local Outdoor Access Forum

Research Brief *(draft for comment)*

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Purpose of draft Research Brief

The purpose of this brief is to provide Cairngorms Local Outdoor Access Forum (CLOAF) members and relevant Cairngorms National Park Authority (CNPA) staff with summary findings of the research conducted by the James Hutton Institute between 2006-2011 which examined the functioning of the CLOAF. The aim is to invite discussion and comments in order to refine this brief (e.g. further insights, omissions, misinterpretations), and draw out lessons learned which may be of use to the CLOAF, other Local Access Forms and other interested stakeholders.

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1 Introduction

Local Access Forums (LAFs) are statutory part of the outdoor access management 'package', comprising a range of local stakeholder representatives who act in a voluntary capacity to advise on the management of access rights and responsibilities. This research brief aims to provide insights into how LAFs work in practice, reporting on an in-depth case study of Cairngorms Local Outdoor Access Forum (CLOAF) from 2006-2011.

Conducting research on a particular LAF is a valuable exercise for a number of reasons. If we examine in detail how a LAF functions 'on the ground', we can:

- provide specific insights on the structures, processes and outcomes of that LAF which may help refine, consolidate and affirm its practices;
- identify broader lessons for other LAFs in Scotland (and beyond)
- better understand the role LAFs play as part of the wider access (and indeed rural) governance and policy framework, and how national and international issues and drivers are mediated by a LAF at a regional level.

CLOAF has been operational since March 2005. Its practices have been studied by the James Hutton Institute (JHI) through ethnographic observation since October 2006, as part of Scottish Government funded research (Programme 3: Environment - Land Use and Rural Stewardship, 2006-2011). This brief presents the preliminary findings from this 5-year study. They are purposefully preliminary because it is important that the Forum itself has the opportunity to read and comment on the findings, and provide the researchers with feedback with which they can make additions, amendments and refinements as appropriate. The revised Research Brief will be made publicly available, and targeted at those involved with LAFs in other areas who would like to learn from what happens in the Cairngorms National Park area.

1.1 Background

This study of the CLOAF is part of a broader package of research on outdoor access conducted by James Hutton Institute (formerly Macaulay Land Use Research Institute). This component was initially designed to support the main fieldwork and data collection, which used mobile and video methods to investigate access *user* practices (with a particular focus on walking and mountain biking). However, it has provided many valuable insights in its own right about how LAF processes are implemented and evolve, and about the role and function of deliberative local institutions involving public and private actors in rural governance; and these are worth elaborating.

Regarding future research, there are plans and a small amount of funding to continue working on Local Access Forums¹. This will be part of a module on 'Understanding and resolving conflicts', which will focus on two case study issues (provisionally: dogs & wildlife disturbance, and; mountain biking in upland areas). Here we would wish to continue our observation at meetings but rather than looking at the Forum itself, our

¹ As a component of the 2011-2016 programme the within the 'Understanding the linkages and interdependencies between rural and urban areas' Work-Package (8.3)
<http://www.scotland.gov.uk/Topics/Research/About/EBAR/StrategicResearch/future-research-strategy/Themes/Theme8>

focus would be on the specific case study issues and their linkages to other parts of the outdoor access universe. We will also be observing an urban-based LAF (Dundee) in order to trace the shaping of ‘responsible’ behaviour between urban and rural contexts.

1.2 Approach

The overall research question was:

- How do the structures, practices, and relationships constituting the CLOAF shape its functioning and future challenges?

The specific research questions included:

- How is LRSA 2003 and the Code interpreted and put into practice in the spaces of the CLOAF?
- How has the institution of the CLOAF developed over time?
- How does the CLOAF interlink with other components of the access framework?
- In what ways do CLOAF practices exert influence in governing or managing access?

More than 200 pieces of data were gathered and analysed, comprising:

- Fieldnotes from observation at quarterly Forum meetings
- Full transcripts of quarterly Forum meetings
- Fieldnotes from (bi)annual events
- Official supporting documents (including meeting minutes, meeting papers, and associated strategy documents)

The method centred on non-participant observation of Forum meetings, and, where possible, afternoon site visits and training sessions. Although we have been collecting primary data on the CLOAF since October 2006, we included in our analysis as secondary data the Papers and Minutes from all the meetings since March 2005, when the Forum was inaugurated. This material was subject to qualitative analysis looking at governance as practiced (e.g. how decisions are made or actions carried out, how particular statements or actions carry influence, how issues might be aired, framed, resolved or sidelined, who plays which part in these processes, and the dynamics between different stakeholders). This enables the identification of what works well (or not so well) and why.

1.3 Concept of ‘Action Arenas’

To understand the workings of a LAF, as with understanding institutional processes of any kind, it can be useful to think in terms of ‘action arenas’. An ‘action arena’² can be defined as a shared, ongoing ‘project’ in which groups of participants – individuals or organisations – repeatedly come together in action situations, in relation to an issue of common concern³. An ‘action situation’, such as a specific LAF meeting, indicates “the social space where participants with diverse preferences interact, exchange goods and

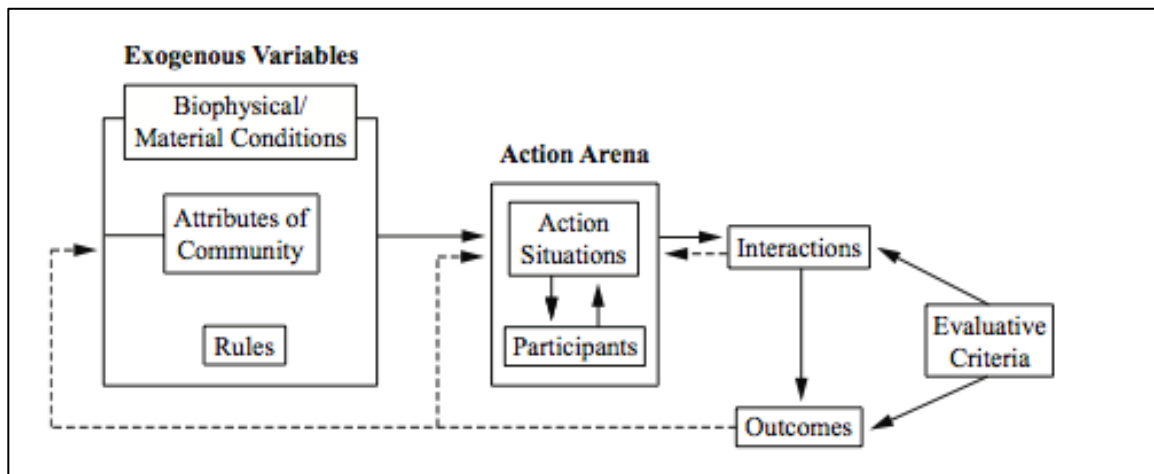
² ‘Action arenas’ are key components of the Institutional Analysis and Development (IAD) framework (see Ostrom, 2005).

³ Other ‘action arenas’ relevant to outdoor access include the National Access Forum (NAF), Paths for All, SCAN, other local groups, clubs and networks, and court cases.

services, solve problems, dominate one another, or fight (among the many things that individuals do in action arenas)” (Ostrom, 2005, p.14). Participants would be taken to include Forum members, relevant CNPA staff, guest contributors, researchers, observers, annual event attendees, and so on.

The main task of the analyst is to trace the linkages between *participants* and *actions situations* as they generate specific *outcomes*. (see Fig.1).

Figure 1 A framework for institutional analysis focussing on the 'action arena'



(Source: Ostrom, 2005, p.15)

Attention is paid to processes and interactions within the action arena, as well as environmental, social and regulatory contextual factors (see left side of diagram). This means identifying and examining the interrelations between various people, their roles and responsibilities (formally and informally; in this, and other action arenas), and their capacities (e.g. resources, information, skills and influence). For each action arena it is also necessary to identify the main regulatory boundaries that enable, incentivise and constrain various behaviours (called ‘rules’ in the diagram). These include not only the formal laws and regulations that delineate how certain relationships ought to function (e.g. the Land Reform (Scotland) Act [LRSA] 2003 and the Scottish Outdoor Access Code [‘the Code’]), but also informal norms and moral ‘codes’ of appropriate and acceptable behaviour. A typical analysis of ‘action arenas’ would additionally consider features such as representation, transparency, legitimacy, accountability, deliberation, choice-sets and decision-making, power dynamics, (dis)incentives, monitoring, and feedback.

2 Official role of a Local Access Forum

2.1 The general role of a LAF as legally defined

LAFs form one component of broader framework of outdoor access policy and governance⁴, which has formal and less formal elements (see Fig.2). The role it plays

⁴ Governance can be defined as the rules, enforcement mechanisms and related processes that coordinate the activities of the members of a group (Fischer et al., 2007).

within this framework therefore has the potential to shape how land is perceived, used and managed with respect to outdoor access.

Figure 2 Scotland's outdoor access governance framework



An excerpt from the Land Reform (Scotland) Act 2003, Section 25 on ‘Local access forums’, highlights the central function of LAFs in delivering a model of outdoor access rights based around the needs and contingencies of specific local settings and situations. It states, “[t]he emphasis in the Act is on the local management of access. Local access forums will play an important role in this respect in advising local authorities on the discharge of their duties and powers under the Act” [25(1)]. Each of the 32 local authorities in Scotland is required to establish at least one local access forum for its area, to carry out the following role and remit in relation to access rights [LRSA, Section 25(2)(a) and (b), **all emphases added**]:

- “to **advise the local authority and any other person or body consulting the forum** on matters having to do with the exercise of access rights, the existence and delineation of rights of way or the drawing up and adoption of a plan for a system of core paths under sections 17 and 18 above”;
- “to **offer and, where the offer is accepted, to give assistance to the parties to any dispute** about the exercise of access rights; the existence and delineation of rights of way; the drawing up and adoption of the plan referred to in paragraph (a) above; or the use of core paths, **towards the resolution of the dispute**”.

The LAF as a space for the convergence of difference and diversity – of people and capacities - is recognised as crucial to fulfilling its statutory role. As Section 25(2) states “One of the most important functions the forums will provide is that they will **bring together different interest groups with a variety of experience and knowledge** in different fields relevant to access rights and those with an interest in or affected by

access rights. This bringing together of knowledge will be vital in advising and assisting local authorities in implementing the new access arrangements in their areas". In effect, the system relies heavily on social norms and relationships, communication, the building of mutual trust and legitimacy, and issues being dealt with through relatively informal means; local influence and local relevance. The use of courts is supposed to be minimal. LAFs sit on the cusp of formal/informal, abstract law/concrete cases, citizens/officialdom, and rural/urban.

The Act foresees the kinds of assistance and advice being given by a LAF to a NPA/LA as pertaining to:

- the drawing up of, and settling objections and disputes over, the **core paths plan**
- **conflicts between different categories of recreational users** are using the same area of land
- the need for **byelaws**
- the appropriateness of proposed **orders** under section 11 of the Act.

Indeed, LAFs are statutory consultees in relation to proposed byelaws and orders. See Appendix II for the full text excerpt from LRSA 2003 relating to LAFs.

To realise local context and issue relevance, scope and encouragement is given in the Act for LAFs to elaborate their own role in practice: "This guidance cannot inform local authorities of what should be done in every case across the whole country. There must be flexibility to allow adoption of innovative means and methods to resolve problems. Local authorities will wish to establish their own guidelines and constitutions for their local access forums". Guidance on running LOAFs was produced in 2002 before most LOAFs were established, and revised in 2008 (Paths for All Partnership, 2008). This document sets out in detail how a forum might choose to function effectively in different contexts and develop its role over time. How the LAF role has been delineated in relation to the Cairngorms National Park areas is discussed in the next section.

2.2 The stated role of the CLOAF

The main purpose of the Forum, as stated in its Operating Procedures, is:

- To advise the Authority, and others consulting the Forum, on matters to do with outdoor access rights; rights of way and the Core Paths Plan

The stated specific objectives and functions of the Forum are:

- To act as the local access forum for Cairngorms National Park and to undertake the functions of that body in terms of Section 25 of the Land Reform (Scotland) Act 2003;
- To advise the Authority in the review of the Core Paths Plan;
- To advise the Authority in the review of its Outdoor Access Strategy;
- To advise the Authority and any other person or body consulting it, on the existence and delineation of rights of way and the exercise of access rights;
- To promote responsible access and land management through assisting the Authority in publicising the Scottish Outdoor Access Code;
- To promote discussion and the sharing of knowledge, awareness and good practice in outdoor access matters;
- To support the provision of appropriate infrastructure that improves responsible access to the countryside for all; and

- To offer advice that will assist in the resolution of outdoor access disputes.

3 Role of a Local Access Forum in practice

3.1 Overview and achievements of the CLOAF

Over the past 6 years the Cairngorms LOAF has built a reputation as a highly functional LAF, and together with the CNPA, has become known and respected for making a key contribution and displaying initiative on access issues on a local and national stage. It has become held in high regard for taking a leadership role on many issues, shaping broader agendas and decision-making. An impact is also being made at an international level. For example, the Directorate for Nature Management (DN) in Norway (their equivalent body to SNH) is very interested in how Scotland's LAFs work and how these and the wider access model might inform future revisions of the Norwegian outdoor recreation management framework. In an early CLOAF meeting, a determination to be 'more than just a talkshop' was articulated. Now there is evidence to demonstrate that CLOAF succeeding in this aim, by doing work of *practical* and *strategic* significance.

If this LAF is considered the gold standard in well-functioning, then it is useful to know for the future and for other LAFs what it is that is done well, why, and how that works in practice. It is also worthwhile to identify any aspects that could be done better still. This section examines the actual practices through which such outcomes are achieved, and the roles played 'on the ground'. Figure 3 shows the wide range of actions that are done in the spaces of CLOAF meetings.

Figure 3 Typical CLOAF practices



From these it is possible to identify some key roles played in practice in the action arena of the CLOAF. These include:

1. Representing
2. Advising

3. Knowledge sharing and co-learning
4. Deliberating and conflict resolution
5. Reviewing and reflecting
6. Shaping moral norms of 'responsible' behaviour

These will be discussed in turn, following a brief consideration of Forum meetings and procedures.

3.2 Meetings and procedures

Role of Convenor

The evidence suggests that the role of Convenor is absolutely pivotal to the functioning of a LAF. The ability of a Convenor to demonstrate key skills in the area of leadership and diplomacy, especially as regards the chairing of meetings and facilitation of discussion, was shown in the case of the CLOAF to affect the functioning of all other Forum processes. The research material indicates that the strong capacities of the two main Convenors in this regard – with their experience and approach generating broad levels of trust and respect – could play a crucial role in the successes of the Forum. This is not to say that issues of how meetings are run never arise. However, for the most part, problems identified have been addressed swiftly and directly, for example, by discussing the issue in dedicated slot at a future meeting, or at an extraordinary meeting. Glossing over these issues of process would quickly erode the legitimacy of the Convenor, so such an approach is crucial.

Organisation & administration

The CNPA provide the secretariat for the Forum, and are largely considered to be very organised and efficient in this role. Noted features of this role-in-practice include: planning and operating tightly structured meetings; providing clear and relevant information in a timely manner (including consistently structured meeting papers and supporting materials); arranging and preparing for well-scoped papers (and supplementary evidence, such as maps, data or background information) with clearly defined tasks regarding the response required by the Forum, and; arranging pre-meeting afternoon sessions.

Agenda setting

The agenda for the quarterly meetings is set and circulated in advance on the basis of a meeting between the Convenor and CNPA staff, informed by any input submitted to the Convenor by Forum members or other parties. Agenda time is one of the most scarce resources of the CLOAF, as there are usually far more issues to discuss than can be accommodated in a 2.5 hour slot. This puts onus on the Convenor not only to select carefully the issues that make it on to the agenda (in number and nature), but also to chair the meeting effectively so that all agenda items receive fair coverage.

Monitoring & reporting

The reporting, monitoring, recording, sifting and presentation of access problems is fundamental for providing a basis for Forum discussions. This applies not only to the resolution of practical, specific cases, but to have the capacity to make links between specific cases, putting them in context, and their implications for more strategic access management. See section on 'casework' in Section 5.

Sub-groups

CLOAF makes some use of sub-groups or working groups, usually in relation to producing a strategic response to a particular consultation or initiative (e.g. core paths), resolving or exploring a specific issue (e.g. signage), or participating in relevant projects (e.g. collaboration in scientific research, such as the Participatory Video project on ‘Dogs and Outdoor Access’⁵). Discussion at the 2011 SCAN meeting on LAFs suggests that CLOAF does not use working groups as much as some other LAFs. There is an awareness of how onerous a Forum position is for busy people, and an implied wish to preserve energy and goodwill. Making efficient use of Forum meeting time may also be a factor in easing reliance on extra-curricular Forum activity.

3.3 Representing

Representation and Forum structure

Participants in Forum meetings and sessions have the opportunity (and indeed responsibility) to speak on behalf of others; notably, to raise awareness of their perspectives and experiences, and to articulate likely implications of certain management actions for them. Therefore, it is important to consider precisely who is involved in a LAF and in what capacity, as well their capabilities and commitment. Membership is on a voluntary basis for a period of three to six years with annual rolling recruitment through advertisements in the local press. Demand for places in the CLOAF has always significantly outstripped the positions available. The Forum is required to have a maximum of 21 members including an independent convenor and, in the case of the CLOAF, a CNPA board member in order to ensure a spread of representation across interest groups (see Table 1).

Table 1: Cairngorms Local Outdoor Access Forum membership structure as of 2012.

Sectoral Interest	Number of Members on the Forum
Recreational Use	5
Land Management	5
Community Interests	7
Public Agencies ⁶	3 (Forestry Commission Scotland, Scottish Natural Heritage and SportScotland)
CNPA Board Member	1 (overlap with one public agency position)
Total	20

Members are selected from those responding to local advertisements by CNPA Access Officers, the Convenor of the Forum and a Board member on the basis of their relevant knowledge, skills and experience of outdoor access. Nominally, members are selected to represent one of four interest groups: recreation; land management; community, and; public agencies. However, in this LAF, the expected role of members is not solely to represent their own interest groups, but to also consider access issues on behalf of all residents and visitors to the National Park, whether they are land managers or access users i.e. members are explicitly encouraged to ‘step into the shoes’ of others, both

⁵ Weblink: <http://www.macauley.ac.uk/videos/CLOAF>

⁶ The recent public sector budgetary constraints have raised the issue of public agencies being forced to withdraw resources from LAF participation. Therefore, there may be less public agency representation in future.

within and beyond their own interest groups. This can be seen as an ambitious ‘ethic’ to instil in such an action arena. Nevertheless, there are many instances in which Forum members have demonstrated interest, awareness and empathy with outdoor access stakeholders who would not typically be considered within their immediate representative group. This worked to enhance the trust and goodwill between Forum members.

The rolling membership recruitment approach allows the views of those with longer experience within the CLOAF to be balanced against those brought by new individuals who may be able to cast a fresh perspective on issues. This prevents stagnation of the LOAF whilst retaining some continuity of understanding of the process in which the forum is engaged, and awareness of the precedents set, thereby avoiding having to ‘re-invent the wheel’⁷.

Representativeness in practice

Stakeholders in the action arena of the Forum are of two main types: those with direct contact with the CLOAF, in that they are able to attend and express themselves at Forum meetings (principally Members, CNPA staff and guest speakers), and those who are connected through these intermediaries. Accordingly, to understand representativeness as a function of process and not just structure, we must consider how Forum members and CNPA staff relate to broader stakeholders within the access governance framework (which covers a wide spectrum of individuals and organisations from ordinary members of the public to SNH); both in terms of the links they have (e.g. how well networked), and the quality of those links. Quality of linkages covers aspects such as how two-way the flow of knowledge is, how regularly there is contact and discussion, and the depth of understanding a representative has of the issues experienced on the ground. Achieving representativeness is crucial for generating and sustaining trust amongst Forum members, as well as maintaining legitimacy amongst the secondary tier of stakeholders.

One observation is that, in practice, Forum members’ interests and experience rarely map directly on to their assigned representative group. There is blurring and overlap between the categories of ‘Recreational Use’, ‘Land Management’, ‘Community Interests’, and ‘Public Agencies’. For example, land manager representatives are sometimes also recreational users (e.g. as dogwalkers, horse-riders or mountain bikers) and recreational representatives can also act in a ‘community’ capacity. This serves as a strength in encouraging the appreciation of broad stakeholder perspectives. Although a lack of clarity in terms of who is represented can also serve as the grounds for tension.

Allocating and enacting the role of ‘Community’ representatives seems to give most cause for ambiguity, particularly in issues other than Core Path Planning. Often ‘community’ representatives have a strong background and involvement in ‘recreational user’ interests, which can fuel the occasional articulation of concern over the Forum having – or being seen to have – an ‘anti-land manager bias’, as it was put in one meeting. However, this is offset in practice to some degree by the fact that ‘land

⁷ Whilst CLOAF members represent a range of disparate interests, individuals over time develop a second, cohesive, identity allowing them to think of themselves as part of a deliberative process. Whilst there is understandably variation between individuals in the extent to which they relate to particular issues, the CLOAF members often actively seek to identify areas of common understanding. This is to some extent affected by turnover in the CLOAF membership with new members establishing trust within the group, increasing awareness of their role in the process and taking opportunities to contribute, while the existing members need to reciprocate in this if the functioning of the CLOAF is to continue. This is particularly important when new members are from previously unrepresented groups or minority interests.

manager' representatives of the Forum are shown to have a strong voice in Forum meetings, in that they regularly convey their views confidently and articulately and often receive proportionately more 'airspace' than the other two groups. In addition, the 'Community' members that could be said to be more strictly 'community'-only representatives have in some cases been relatively quiet in meetings. It is also the case that particular interest groups may become less-represented depending on the commitment to meeting attendance and preparation shown by Forum members. This can include how Forum members interact with broader stakeholders in relation to the CLOAF, for example, how they elicit their views, how they feedback information, and how often.

Another issue of process-based representativeness to bear in mind is in the provision and authorship of written materials presented to the Forum. This relates to questions of who gets to provide information and written submissions, how they are engaged with and deliberated in (and before) meetings, and how they shape decision-making.

Inclusivity and diversity of Forum members

The CLOAF has at times discussed the extent to which particular kinds of recreational user groups are represented in Forum structures and meetings. They have also discussed how any imbalances ought to be addressed through future recruitment or training days or workshops with an extended range of access users. For example, the coverage of all-abilities access perspectives has been raised on several occasions, although often it has turned out that someone on the Forum has actually got significant experience with all-abilities access. Perhaps the issue then is how visible a Forum member's support for a particular user group is to other group members, which may sit uncomfortably with the obligation of members to on behalf of multiple user groups.

Conversely, some user groups have been the subject of specific efforts to include related issues and perspectives in discussion, but with limited success. A recent example is mountain biking, which until 2011 was rarely mentioned (and even less championed or defended) in CLOAF meetings, but has since featured as a key agenda item and the topic of one of the afternoon training sessions. Nevertheless, despite these efforts – and perhaps due to the notorious lack of institutional co-ordination and representation of mountain biking in the UK - there is evidence to suggest that the experiences and views of mountain bikers have not been meaningfully brought to bear on CLOAF discussion, confirmed by the preliminary findings of CNP-specific focus groups (Potheary 2012, forthcoming). There is reluctance to be too methodical in process-based representation for fear of straying into the territory of a 'quasi-judicial' body. As echoed elsewhere, there is an implied trade-off between representational objectives undermining the flow of discussion and responsive agenda setting, and creating and maintain legitimacy amongst.

In contrast to many other discussions of representation in other institutional settings, different diversity groups (such as gender, ethnicity, and socio-economic background) have rarely featured in CLOAF discussions. Furthermore, the make-up of the Forum does not reflect the demographic structure of Scotland's population (e.g. only 5 of the 20 Forum members are female and none are from ethnic minorities or lower socio-economic grades). However, the CLOAF is not unique in this regard and could be said to merely reflect outdoor access participation and management in general as a realm

that is demographically overrepresented by white, middle class, able-bodied, heterosexual males (Brown et al. 2010).

3.4 Advising

The Forum provides advice on a range of access issues, principally to the CNPA, but also to other parties such as land managers, other public bodies [... add others]. Advice is given at a strategic and practical level. For example, the Forum has contributed to key strategic documents, such as the Core Paths Plan, Guidance for Organised Outdoor Events, and the Promotion of Recreational Opportunities in the Park (see Fig.4).

Figure 4 Strategic documents informed by CLOAF advice



These were produced by CNPA for the CNP area, but have been found of value more widely. For example, the Events guidance document demonstrated leadership on this issue, providing benefits to other LAs, LAFs, NAF and SNH, and feeding into national level debate and policy implementation. Likewise, developments on CNPA/Forum-related structures and procedures that have been aided by Forum advice have been shared with other access authorities and Forums through events such as SCAN meetings and the annual LAF-NAF meeting (e.g. on handling casework, method of representation).

On a more practical level, the Forum has regularly imparted advice on specific access cases and persistent problem issues, to CNPA staff and land managers. It has also helped shape and tighten up procedures, such as those relating to the running of Forum meetings, as well as to CNPA tasks such as problem reporting.

In addition, there was evidence of numerous instances when the knowledge and discussion of the Forum had shaped the thinking of CNPA staff and the CNPA Board; aiding and querying decisions, prompting and facilitating action, suggesting changes or approaches [give quote to illustrate - inciting CNPA to be clear about the purpose and approach of various initiatives and actions (e.g. policy versus guidance)]

These practices of querying, scrutinising, clarifying, challenging, checking priorities, and demanding pre-emptive action on anticipated issues, often serve to hold CNPA to account on certain issues. This can on occasions involve some disagreement and

discomfort which then needs to be worked through, but is crucial in the process of giving related CNPA decisions and actions legitimacy more broadly⁸.

3.5 Knowledge sharing and co-learning

A clear finding is that the CLOAF is a powerhouse of knowledge exchange. The wealth of expertise – in both depth and breadth - brought to the table at Forum meetings is substantial, and is visibly brought to bear on the deliberation of access issues. Experience of different types of access issues, different geographical and historical contexts, and different sources of knowledge, ranging from policy, law, education and science to a range of ‘lay’ expert knowledges, have been regularly demonstrated. This enables awareness to be raised not only of particular issues or future challenges, but of differing positions in relation to them. It also allows external sources of information drawn from Member’s and CNPA staff’s broader networks⁹ to be presented and considered by the group, often in ways that help deal with novel or thorny specific cases, as well as in anticipating future issues. For instance, there are regular discussions of relevant case law, and its implications for exercising and managing access rights. Associated issues explored have included: how much weight is given to the Code (resulting in agreement that the CNPA would write to the Scottish Government asking for clarification on how this result should be interpreted); what constitutes responsible access if the manner of access causes deterioration for which the landowner is financially liable, and; the ramifications of taking potential damage - not just actual reported damage - to access infrastructure into account.

The physical and social spaces provided by Forum meetings and associated activities encourage a mingling, mixing, exploring, exchange, sharing of knowledge, experiences and perspectives amongst different stakeholders, some of whom would rarely meet or talk in such ways otherwise. In addition to the co-learning gained in meetings through processes of negotiating and debating the operationalisation of LRSA 2003, knowledge is shared very effectively through informal training sessions on agreed topics. These usually occur in the afternoon prior to meetings and are led by those with experience of the issue under consideration (e.g. a hill farmer on access provision on a livestock farm). Having diverse stakeholders learning together through shared experiences where discussion is quite literally grounded in a particular geographical place with a ‘live’ issue, is shown to be invaluable in expanding mutual understanding between commonly-opposing viewpoints. Just as was found for the CNPA and its partner organisations more broadly (Blackstock et al. 2011), informal relations can be more effective at building and retaining commitment amongst stakeholders, and helps to build and maintain trust. Perhaps ironically, one source of relatively untapped information was making use of these informal spaces of knowledge sharing to ‘pick the brains’ of the researchers observing the CLOAF, particularly in relation to other outdoor access

⁸ The CNPA is officially accountable to the Scottish Government, the Strategy Group and the CNPA Board. The CLOAF therefore can be seen to act as an informal but nonetheless important source of ongoing and iterative local and regional accountability for the actions, decisions and approach of the CNPA as regards the interpretation and implementation of outdoor access policy and legislation.

⁹ The group is well connected to other areas of the outdoor access framework. For example, some members are also members of neighbouring LAFs, there is regular attendance of Forum/CNPA personnel at the annual LAF-NAF meeting, plus one of the CNPA staff sits on NAF as one of two representatives of LAFs.

research undertaken in the CNP. There is scope for both researchers and attendees to strengthen exchange in this regard.

3.6 Deliberating and conflict resolution

Figure 5 illustrates the kinds of problems and issues the Forum spends most time talking about (the bigger the writing the more it has featured in discussion).

Figure 5 Problems and issues discussed by CLOAF



Related deliberation and conflict resolving practices take place on a number of levels:

- Airing, mapping out and working through disagreement amongst meeting participants
- Aiding the understanding and resolution of specific reported access disputes
- Disagreements or tensions amongst different parties within the CNP
- Broader disagreements or tensions amongst different parties within the outdoor access governance framework

The first two points will be elaborated throughout the sections below. The later two points can be illustrated with a case study relating to Core Path Planning:

The way in which the CLOAF deals with more contentious issues is exemplified in strategic discussions about the rationale behind the statutory planning of core path networks for which the CLOAF is a formal consultee to the CNPA. Discussions regarding this process, such as whether or not upland paths should be included, revealed that the Forum had a different view from the CNPA board. In an initiative going beyond the good practice guidance, the CLOAF invited an independent facilitator to manage a key debate, enabling a fuller deliberation, around the core path planning process. This was carried out immediately prior to a CLOAF meeting at which a summary of the debate was provided by the facilitator and used in subsequent discussions to which the facilitator was not party (given that he was not a member of the CLOAF). This process enabled the CLOAF to question the national level requirement for a Core Path Network and subsequent to the informed debate, agreement was reached that the sufficiency of path provision should, if approved by the NAF, be decided on a local (LAF level) basis.

At all levels Forum members can act as an informant and a deliberative referee on the access issue in question, providing context and insights that allow the legislation and the Code to be interpreted and applied in a way deemed appropriate. The ability of the CLOAF to achieve consensual agreement over many issues that might in other arenas remain unresolved allows the CNPA to be more confident in the decisions it makes in response to issues, and arguably affords these decisions more legitimacy. Even if deliberation over an issue does not reach consensus, the debate will at least have explored a range of options available to the CNPA, and the views for and against. Individuals themselves are increasingly aware of their dual role, both as representatives for their 'access type', and as a participant in the collective process that is the CLOAF.

3.7 Reviewing and reflecting

This study found that CLOAF allows time and space for reflective debate on its own processes and structures, and proactively seeks to improve them. This crops up organically during meetings as well as being addressed through a regular, more formal review with a questionnaire. The CLOAF's awareness of its limitations and omissions, willingness to discuss them, and its ability to look outside for advice indicates that its members are engaged in a process that they are seeking to improve, often above and beyond the good practices guidelines set out in Paths for All (2008). Examples where changes have been made as a result of these reflexive processes include: the declaration of interests on a Paper by Paper basis, clarification and tightening of casework procedures, and the revision of operating principles.

3.8 Shaping moral norms of 'responsible' behaviour

A key characteristic of the Scottish model of access rights is its emphasis on behaviour rather than rigid prescriptions; leaving flexibility to enact what is responsible and reasonable in particular circumstances. A crucial but intangible role played by the Forum is therefore acting as a moral compass in the interpretation and implementation of the generic legislation and Code at local level; helping to translate abstract 'rules' into concrete behaviours. Querying, clarifying and deliberating facts, procedures, definitions, assumptions and omissions – drawing on individual and collective knowledge of the issues, places and communities (of interest and of place) - has the effect of shaping and stabilising norms and practices on the ground in ways that make sense in relation to specific social, geographical and historical contexts. Evidence for this can be found in discussion over fundamental ethical issues such as what is fair and equitable in particular circumstances, or questioning taken-for-granted assumptions (e.g. that erosion is something to always be avoided).

4 Relationship between the Forum and the CNPA

The relationship with the relevant access Authority is crucial to functioning of a LAF. Inevitably, a key underlying dynamic concerns the relative agency each of the two bodies can exert in shaping Forum discussions, procedures and actions or decisions taken as a result of them. In this it is important to understand the nature of their interdependence. Put in simple terms, on one hand, the work of the CNPA is aided by the knowledge, connections and legitimacy provided by Forum members. On the other

hand, the effectiveness of Forum members (and in turn their representatives) and Forum meetings in shaping access managements relies to a large degree on CNPA's skills, resources and executive power. In the case of CLOAF, both bodies display a largely engaged and constructive relationship with notable levels of trust and efforts to maintain goodwill displayed. There are six points worth highlighting in the following sub-sections.

4.1 Social and institutional learning

Over the six years of this study there has been a noticeable growth in confidence and capacity of Forum members to shape the meeting agenda and discussions. Greater signs of proactivity and willingness to ask more difficult questions show there has been a weaning off the heavy reliance on the CNPA at the beginning (as was anticipated to be the case with all LAFs). It is widely acknowledged – both within the Forum and beyond - that the CNPA still plays a strong role in CLOAF compared to some LAFs. LRSA leaves space for each forum to find the appropriate balance between LAF and access authority influence. Where the balance lies for each Forum is a product of ongoing, iterative explicit and implicit negotiation, and would therefore warrant regular reflection. Some participants indicate that strong CNPA involvement and control is one of the reasons CLOAF is an influential Forum. CNPA staff too acknowledge that they provide a 'strong steer' to the Forum, but feel there are key advantages and reasons for this, such as recognition that it will be CNPA who has to bear responsibility for solutions and decisions made on the basis of CLOAF advice.

4.2 Gatekeepers

CNPA staff and the Convenor can act as powerful *gatekeepers* in as much as they can exert influence over:

- agenda setting
- the framing, timing and unfolding of discussion
- the provision of information and evidence
- the selection of problem cases to draw attention to, discuss and get advice on
- topics and hosts for afternoon training sessions

There are always gatekeepers in any institutional action arena, and there is nothing inherently negative about the channelling of information and decision points, especially where the power to act is accompanied by duty and responsibly. All that is required is awareness and transparency of this power so that legitimacy amongst Forum members and wider stakeholders is not undermined. Such powers could in theory be open to abuse but the evidence for CLOAF points to recognition of the responsibility these gatekeeping positions carry. There is also the balancing influence of Forum members who can, and do, challenge CNPA to justify certain choices and actions. However, it should be noted that it can take a while for members to have the confidence to question and query established or new practices. The asymmetry in personnel turnover (i.e. there is no similar turnover in CNPA staff as there is with Forum members) provides valuable stability for the CLOAF, but may have implications if established staff members enjoy a higher degree of familiarity with people, norms and procedures.

4.3 Casework

One area that illustrates well the relationship between Forum and Authority is casework; dealing with specific access issues as found by or reported to CNPA access officers. Engagement in this regular agenda item is often high amongst Forum members, perhaps because it offers practical and tangible ways of advising the CNPA and holding them to account. Casework procedures and their effectiveness depend on the nature and number of problems reported officially (and the extent to which they reflect the problems actually experienced). In other words, the CNPA and Forum can only readily respond to the problems brought to their attention. In this sense, the public and land managers reporting problems (or not) are key gatekeepers in this process.

CNPA staff also have a clear gatekeeping role in casework in relation to:

- Recording and presenting information relating to problem reporting
- Selecting cases to bring to attention of Forum
- Prioritising cases to be tackled
- Developing and implementing casework protocol

All have arisen as issues for discussion on at least one occasion. Casework procedures and reporting is an area in which the Forum's constructive questioning, discussion and scrutiny has most obviously led to clarifications and revisions in CNPA practices, notably the tightening up of the protocol for dealing with reported access cases be more transparent and systematic (e.g. in terms of how many complaints warrant action, how a hierarchy of urgency is assessed, how and when complainants are updated).

Input and responses have also been sought by Forum members regarding the type, volume and presentation of access cases at Forum meetings. For instance, on the topic of the casework spreadsheets it was remarked:

“I think this [casework] is central to our purpose and for that reason I think we should have uniform in the way that it is presented, because certainly this way we all have some idea of the nature and scale of access cases and this is what we are about”

Members have also sought further explanation on how cases are selected for discussion at Forum meetings, how cases and their resolution are prioritised in terms of CNPA resources.

4.4 Advisory versus executive role

Clarifying the advisory versus decision-making role

At times, the boundaries between advising and decision-making practices become particularly visible at meetings, as participants grapple with precisely where the line is drawn regarding how much influence over a decision can be exerted by Forum members and related discussion. Officially the line is clear: a LAF exists as an advisory body, not a decision-making one. However, in terms of the nature and degree of influence over the decisions ultimately taken, distinctions cannot always be so pronounced.

Forum members are in a position of possible influence by having the opportunity to raise awareness of particular concerns, perspectives or pieces of information. Advice is given by the CLOAF with the purpose of informing and shape decisions of the CNPA, and

other parties seeking advice. There is an underlying supposition that a certain amount of advice will be heeded. If it were not, there would be less reason for the Forum to exist, and in time the legitimacy and functioning of the group would be undermined. Expectations, therefore, have to be constantly managed with respect to how much the actions and discussion of the Forum can (and will) influence decisions ultimately taken. Discussions seeking to clarify this boundary arose on regular occasions [give example?], and worked to achieve a balance between the Forum members expectation and desire to be influential, with the interests of those with the official role and responsibility of taking a decision to reinforce a clear line.

Concern over role being perceived as 'quasi-judicial' body

Some participants are very keen to emphasise at regular intervals their resistance to the CLOAF being seen, erroneously, as a quasi-judicial body. When we look at the official definition of a quasi-judicial body, there are solid reasons why CLOAF does not fit the bill¹⁰. Nevertheless, when we consider how the law actually works - through norms and practices in multiple spaces between the legislation and official scripts (Blomley, 1994) – as explicitly acknowledged by the LRSA 2003 model, there is still potential agency in any delineation of what counts as 'responsible' or 'irresponsible' in a particular context. This power working at a more tacit level is also important to acknowledge, not least in relation to the Forum's oft-expressed wish and expectation to be independent, objective and representative. Fear of being perceived in a quasi-judicial light has implications for CLOAF procedures. For example, it is cited as one of the key reasons for not being more methodical, representative or balanced in bringing in particular people or perspectives on a particular issue. This runs contrary to other CLOAF processes (e.g. recruitment), in which a great amount of effort is expended in seeking to be as representative as possible, and associated acknowledgements that this is central to the functioning and legitimacy of the Forum, and in turn achieving lasting, broadly accepted resolution of problems.

Collaborative/voluntary versus coercive action

One area of contention in which both these issues relatively regularly arise is regarding the discharging of the access authority's duties under LRSA to uphold access rights. Various Forum members have expressed concern at the CNPA's reluctance or delay in enforcing the legal requirements of responsible access; especially in relation to provision. Such frictions seem almost inevitable under the current governance structures, especially given the CNPA role and funding as a predominantly facilitatory rather than executive body. This is because the imperative to enforce actions of land managers that have become transgressions under the new access legislation (e.g. non-Code compliant gates), works in direct tension with the CNPA's interests and incentives to keep good working relationships with land managers (without the co-operation of whom they would find it more difficult to achieve their objectives). Linked to this is the issue of having limited resources for legal action, especially when the small pool of case law makes court a risky proposition, which is a problem recognised for the implementation of LRSA more broadly.

¹⁰ Quasi-judicial: denoting or relating to powers and functions similar to those of a judge, such as those exercised by an arbitrator, administrative tribunal, etc (Collins English Dictionary, 2012)

4.5 Practical assistance in conflict resolution

Another question that has arisen from time to time is that of how directly Forum members ought to assist in conflict resolution on the ground. Discussion of persistent problem cases, and failed attempts to solve them, has led on rare occasions to Forum members – usually land managers – becoming involved in a practical, face to face capacity, with mixed results. This approach is not preferred by CNPA but is accepted as a last resort where the credence and peer pressure of fellow land managers can create space for dialogue otherwise unobtainable. Land managers likewise can be acutely aware of not wanting to undermine their legitimacy amongst their own social networks by being seen to ‘collude’ with officialdom. Such delicate situations throw into sharp relief issues of the Forum’s perceived independence and legitimacy amongst land managers, and the attendant wariness of Forum members to act in a way that might create or reinforce the view of it as having an ‘anti-land manager bias’. In this regard CNPA staff themselves have stressed that in order for the CLOAF to be legitimate it needs to be seen to be independent from the CNPA, and be a body that land managers can be confident in approaching with their issues. This was suggested to include the need to communicate clearly instances in which the Forum are merely following due process as set out in the Code, rather than following any particular bias.

5 Interface between the Forum, key stakeholders and the public

5.1 Knowledge exchange with public

The relationship a LAF has with the public matters in two main ways: public awareness of CLOAF’s existence and understanding of its role, and its effect on Forum functioning and legitimacy, and; fulfilling the official CLOAF role of helping CNPA publicise the Code. Material from this and wider JHI study of outdoor access in the CNP area suggests that public awareness of the Forum’s work and function is currently minimal, and that it is difficult to find evidence for CLOAF playing the role of publicising the Code other than through the bi-annual event. However, this does not mean to say that nothing is happening. Forum links with the public are played out along three main avenues:

1. Formally (and informally) through organised events

In addition to attendance at targeted public liaison events, such as the bi-annual event, the public have the opportunity of observing any of the CLOAF quarterly meetings and have access to all official meeting papers and supporting materials through the CNPA website. Although observers are not permitted to contribute to the official meeting, there are many opportunities before and afterwards to talk to Forum members and relevant access authority staff. There was initial concern expressed in the early CLOAF meetings about the public being able to attend, but generally it has not been an issue, perhaps because it is very rarely that any members of the public do attend. However, on one notable occasion when it did happen in response to a particular contentious issue, it created widespread discomfort amongst CNPA staff and Forum members and significantly influenced the proceedings of the meeting.

2. Informally through social networks

Forum members play a highly valuable but largely invisible role in educating people about the Code and picking up intelligence about how access rights and responsibilities work on the ground. Since this works in relatively intangible, qualitative, and diffuse ways through Members' social networks, it is often not captured in quantitative metrics of evaluation and reporting. This could be better acknowledged as an important mechanism shaping norms and knowledge, that is distinct from the contribution of other key linkages between access management and the public domain such as rangers and access officers.

3. Indirectly through CNPA

The work of the Forum is sometimes communicated through the CNPA in press releases, newsletter articles and event advertising.

The Forum has recognised that public awareness and engagement is not its strongest suit, and effort has been put into figuring out more effective ways of linking to the public. In doing so, it may be a useful exercise to find out what kinds of people are, and are not, aware of the Forum and its workings so that future liaison efforts can be more effectively targeted. With which public do the Forum generally deal? Are they: interested access users living in or regularly using CNP? Residents (perhaps in problem areas)? Land managers of the CNP? Staff of NGOs or public bodies?

However, the material also suggests an underlying reticence and caution in trying to engage more with the public or wider stakeholders, expressed through a general sense of unease at what could be unleashed if the Forum was better known, better understood and meetings better attended. The Convenor regularly iterates at the beginning of quarterly Forum meetings that the public very welcome to attend; yet it is difficult to know whether there is a genuine desire amongst Members and CNPA staff for this. Some feel it would be higher maintenance, echoing the worries of others about whether they could actually cope with the stronger links with the public more generally. There needs to be greater clarity on who wants greater public engagement (and what kind), what they seek to achieve from it, how Forum functions would ideally be shaped, and who will benefit from it (and how). This would allow the risks of greater public profile and involvement to be more accurately weighed up with the possible benefits.

One of these benefits relates to public understanding of the opportunities for reporting and resolving access issues. At a general level it would be of interest to many people to learn that there is a local body holds regular meetings in which outdoor access concerns are raised and discussed, and often in ways that influence outcomes. The wider research of JHI has found that even outdoor recreation professionals have often never heard of the Forum or understand what it does. More specifically, a greater awareness of problem reporting mechanisms (e.g. CNPA website) and the procedures followed by the CNPA and the Forum when a problem is reported would likely lead to better and more accurate problem reporting, which was highlighted in numerous studies as fundamental to efficacious and cost-effective outdoor access management (Slee et al. 2008; Brown et al. 2010).

5.2 Relationships with other key stakeholders

It is also an official role of the Forum to advise not only the CNPA, but also any other person or body consulting it. Generally, much less advice is given to other parties in

comparison to that given to the CNPA. Although with agenda time being increasingly freed up by the completion of key strategy tasks there has been increased proactivity shown in bringing in contributions of papers, presentations and agenda items from other parties (e.g. NGOs, land managers, other public agencies, project officers, researchers, those developing tools for access management such as websites, guidance, leaflets). Sometimes speakers are invited to help address a particular knowledge gap identified by the CLOAF on a specific topic or issue.

This has served to maintain the Forum's sense of purpose post-Core Path Planning, in contrast to some of the other LAFs. It has also proved very useful for building bridges with wider networks of key stakeholders, showing that CLOAF can aid the understanding and resolution of issues, as well as enhancing Forum and CNPA staff member's insight into different angles on such issues. However, greater guest stakeholder involvement does bring with it issues of agency and representativeness, and related questions of which broader stakeholders get to be included, invited, given agenda space and the chance to author a Forum paper. As discussed already, these aspects shaped how problems are framed as well as the information and evidence brought to bear on the issue, which creates the possibility of loading discussions and weighting them in favour of particular interests. It underlines, therefore, the importance of taking account of representation and balance of interests in CLOAF *process* as well as *structure*, if it does want to be seen to consider and resolve access issues in a transparent and equitable way.

6 Creative tensions

Three key creative tensions can be identified in the functioning of the CLOAF, which will shape some of the challenges it will face in the future. Such creative tensions are largely irresolvable ones; they are part of life for any such Forum by nature of the structures and processes at work, and accordingly will always need to be actively negotiated and reflected on, either explicitly or implicitly.

6.1 Strategic v. practical

LAFs are valuable because one they are of the few arenas in which tensions such as rural-urban relations are discussed and deliberated on with a view to both ethical or strategic principles and concrete cases. Yet there will always be a trade off in terms of proportion of Forum effort and agenda time allocated between strategic actions to better understand and manage outdoor access issues, or responding to consultations on strategic documents on one hand, and specific, practical actions – especially casework - that support the CNPA in upholding and managing access rights on the other. Different LAFs take very different approaches. Running in parallel is the decision of how much time the Forum ought to spend advising the access authority versus other stakeholders who seek advice.

Over the timeline of the CLOAF's existence there have been three broad phases: first, low levels of engagement and interaction reflecting both the initial phase of reporting and the familiarisation period required between members of the CLOAF; second, an interactive, productive, learning but predominantly reactive phase with effort focussed on responding to specific cases and consultation exercises; and third, most recently, an

expressed desire to take stock and generate strategic advice that the CNPA would be able to 're-use' in future scenarios, based on a process of responding to repeated issues. This institutional learning gives CLOAF the dilemma of how much emphasis to place on reactive versus proactive approaches to influencing outdoor access practices of use and management.

6.2 Proactive v. reactive

Reactive versus proactive approaches can be understood as solving versus preventing particular problems. In recent years CLOAF discussion has increasingly moved towards considering how protocols and guidance might be developed so they can provide more streamlined and pre-emptive advice, which in turn would help CNPA staff prevent many cases arising in the first place. For example, an access officer posed the question:

“Are we focussing on the wrong issue? What is the advantage of contacting access officers for a one off access issue? We would prefer to develop good access protocols rather than engage in ineffective ‘fire-fighting’. Pre-empt problems, a positive approach.”

It was also advocated that the LOAF and local authority access officers seek to identify trends in access issues so that they might develop efficient plans for dealing with recurrent or predictable issues.

Proactivity has the added advantage of enabling the capture of problems that exist but would not be reported for one reason or another. There is a danger in focussing casework that the Forum assumes that the only problems are reported ones. However, any move towards standardisation and streamlining must be balanced with maintaining space for the specificities of context (social, geographical, historical) that colour particular cases and situations to be brought into play, and for dealing with new issues or novel angles on them. Recall, that providing locally relevant and context specific advice is officially a central role of a LAF.

6.3 Consensus v. difference

The official LAF role reflects an underpinning aim of LRSA 2003 to use models of deliberative democracy to depolarise debate over access rights and responsibilities and their management. This serves to bring a range of representative views under one roof, and the Forum's regular position on the cusp of contention and consensus is what makes it valuable, demonstrated by Forum members' willingness to debate issues when easy resolutions are not always attainable or even desirable. It was recognised that good advice could sometimes mean presenting the diversity of opposing views that exist in relation to an issue.

Another change that can be discerned in CLOAF practices is the degree to which there is a seeking of – and comfort with – disagreement. In earlier meetings there appeared to be a greater pressure or effort to reach consensus in the advice and guidance being given on a particular issue. Members were also finding their feet in their newly ascribed roles. Over time however, there has been a growing appreciation of the value of not only exploring but also logging and validating diverse viewpoints, coupled with a realisation that this does not necessarily come at the cost of mutual respect and understanding of Forum members. Indeed, the opposite effect can be observed.

Whilst striving for consensus can encourage members to understand different positions on an issue, it can also breed resentment if people feel their experiences and perspectives are ultimately being diluted into a homogenous group view. In this respect, it ought to be noted that differences are often not recorded in minutes as much as consensus. Key factors in enabling constructive disagreement appear to be: a high level of mutual respect for the skills, knowledge and experience of other Forum members and CNPA staff; space for a spectrum of views to be aired and considered, and consequently; effective facilitation and chairing of discussions, as well as willingness to give emergent issues future agenda time where necessary.

7 Conclusions

The degree to which the institutional framework put forward in LRSA 2003 enables outdoor access issues to be managed, depends in part on its interpretation and implementation by the responsible bodies, as well as by access users and land managers. Central to this, therefore, is the way in which LAFs and their respective access authorities function, communicate, define roles and responsibilities, and interpret the guidance and other information emerging from discussions. Examination of CLOAF processes and structures demonstrates the value – as well as the challenges – of allowing regular space for debate, deliberation and social learning between diverse stakeholders outside the official judicial system, where they can develop adaptive responses to access issues and build consensus where appropriate (i.e. striving for conciliation rather than assertion of rights and responsibilities). In contrast to traditional regulatory approaches, which could continue to set the views of recreational users, communities and land-managers in opposition, the example of the CLOAF shows how such institutions can work in a more locally relevant, locally influential and constructive way than purely judicial or adversarial systems. Indeed, it has shown how LAFs can help engender a more joint sense of responsibility for access management between recreation, community and land management interests.

CLOAF has demonstrated many achievements and is held in high regard as an example of good practice. If lessons are to be drawn from this more broadly, it is important to consider the factors thought to shape the effectiveness of the CLOAF as well as reflect on aspects that could be better still, and the lessons learned for the future.

7.1 Factors contributing to effectiveness of CLOAF

Possible reasons for the perceived success and effectiveness of the CLOAF include:

1. CLOAF covers an area (the CNP) that is highly valued from local to international level.
2. Demand for Forum places is greater than positions available.
3. The purpose of the Forum's role is clearly and regularly articulated and the scope of Member's expected contribute clarified (both generally and in relation to specific tasks or issues), often with reference to official documents.

4. Human capital: CLOAF participants (both Forum members and CNPA staff) tend to be highly knowledgeable, experienced, motivated, positive, forward thinking and professional in conduct.
5. Social capital: there is effective sharing of knowledge and expertise, within the group, and between the group and wider stakeholder networks, including across geographical scales (local, regional and national). This has direct benefits for information exchange and also indirect benefits in incentivising Forum participation, improving mutual trust, respect and good will.
6. Strategic rolling recruitment procedures enable continuity in levels of human and social capital.
7. Informal spaces are regularly provided (especially through pre-meeting afternoon training sessions and sharing of food) which play a crucial role in building trust and mutual understanding amongst participants from diverse interest groups
8. Effort is made to share, discuss and contextualise both internal (CNP) and external events, occurrences or pieces of information that aid the Forum and the CNPA discharge their duties.
9. The Forum is proactive in reflecting regularly on its procedures and outcomes – including through methodical review – seeking to understand and improve its efficacy and showing a willingness to embody and improve upon official good practice guidance.
10. Effort is put into maintaining legitimacy both within and beyond the spaces of the Forum meetings, particularly with land managers. Legitimacy is evidently enhanced through expertise, efficacy, balancing various creative tensions, and striving for objectivity and genuine understanding of each other's positions (or those stakeholders for whom Forum members speak.
11. Issues and perspectives raised by Forum members are for the most part acknowledged, recorded, taken up and explored further, even if it takes time and effort over numerous meetings. The drive towards consensus is not allowed to preclude any expression of difference. Showing that issues (and the often associated diversity of viewpoints) are not ignored, and that stakeholders can influence the agenda, generates trust and legitimacy within and beyond the Forum.
12. The Forum seeks a balance between all the various LAF roles, and particularly between general, strategic and specific, practical actions. It has resisted becoming bogged down in 'fire-fighting' and resolving particular problem cases or becoming too focussed on a single task (such as Core Path Planning), and has made time for a more strategic approach to recurrent or widespread issues (e.g. through developing and refining protocols).
13. The Forum has to date received adequate resources not only in terms of meeting expenses but also in terms of access authority staff time and skill, and support for occasional, miscellaneous needs such as external facilitation for working groups or dealing with sensitive issues. The question other LAFs may want to ask is whether CLOAF could work as well or less?

14. Group members bring a range of conflict resolution (and prevention) mechanisms to the table, of varying degrees of formality.

7.2 Challenges remaining

Remaining challenges and aspects for consideration for further effectiveness of CLOAF include:

- A. To strike a balance between reactive and proactive modes, and in turn between standardising procedures and maintaining context specificity.
- B. To manage a balance between advising the access authority and other parties seeking advice, whilst recognising the value of the latter in creating better links with broader stakeholders, and potentially more effective and lasting solutions to problems.
- C. To keep under review the appropriate level of practical involvement of Forum members in conflict resolution.
- D. To clarify and address Forum objectives relating to public awareness and understanding of what LAFs generally and the CLOAF in particular do.
- E. To build on the largely invisible role Forum members play in educating people about the Code through their informal social networks. This is very difficult to measure but potentially of significant value.
- F. To continue to improve knowledge and capacity – especially as regards the legislation and the Code - on specific issues identified by the Forum as needing more work (e.g. commercialisation, bye-laws).
- G. To find ways to address issues created by tensions between CNPA's dual role as enabling, collaborative body and enforcement authority.
- H. To maintain awareness of the function of Forum (and CNPA) objectivity and legitimacy, and what generates and sustains them in the context of the CLOAF.
- I. To recognise the significance of representativeness of process as well as structure (even if at informal level) in maintaining legitimacy and effective problem resolution/prevention. It is possible that the presence and 'airtime' of particular stakeholder perspectives could be more usefully balanced with regard to particular issues, such as through actively seeking to 'round off' perspectives on issues rather than emulate a quasi-judicial body.

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9 Feedback

Your feedback is invited and will be used to revise this document and the future Research Brief. Please send any comments to Katrina either electronically to katrina.brown@hutton.ac.uk or by post to:

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A sincere thank you to all those involved with the Cairngorms Local Outdoor Access Forum who have participated in the research!

10 Appendices

10.1 Appendix I: Excerpts from Land Reform (Scotland) Act 2003 relating to Local Access Forums

[verbatim]

Section 25

25(1) Each local authority shall establish for its area a body, to be known as the "local access forum", to carry out the functions set out in subsection (2) below.

Section 25 of the Act requires each local authority to establish at least one local access forum for its area.

The emphasis in the Act is on the local management of access. Local access forums will play an important role in this respect in advising local authorities on the discharge of their duties and powers under the Act.

Role of local access forums

Section 25(2)(a) and (b) of the Act set out the role and remit of local access forums established under the Act in relation to access rights. That is: -(a) to advise the local authority and any other person or body consulting the forum on matters having to do with the exercise of access rights, the existence and delineation of rights of way or the drawing up and adoption of a plan for a system of core paths under sections 17 and 18 above;(b) to offer and, where the offer is accepted, to give assistance to the parties to any dispute about the exercise of access rights; the existence and delineation of rights of way; the drawing up and adoption of the plan referred to in paragraph (a) above; or the use of core paths, towards the resolution of the dispute.

The Act also provides that local access forums must be consulted on any proposed orders to be made under section 11 (powers to exempt particular land from access rights) where the duration of the order is for more than 6 days, and any byelaw in relation to land over which access rights are exercisable, proposed under section 12 of the Act.

One of the most important functions the forums will provide is that they will bring together different interest groups with a variety of experience and knowledge in different fields relevant to access rights and those with an interest in or affected by access rights. This bringing together of knowledge will be vital in advising and assisting local authorities in implementing the new access arrangements in their areas.

Issues where local access forums might be asked to offer assistance and/or advice to local authorities might be, for example: -Advice in the drawing up of the core paths plan under section 17 of the Act;

Where conflict might arise in circumstances where different categories of recreational users are using the same area of land and these activities might conflict with each other;

Advice on the need for byelaws under section 12 of the Act, where it has become apparent that access rights might have for whatever reason to be managed;

Advice on the appropriateness of proposed orders under section 11 of the Act seeking to exempt particular areas of land from access rights;

Advice where objections have been raised or there is dispute as to how far the system of core paths meets the requirements in section 17 that they are sufficient for the purpose of giving the public reasonable access throughout the area of the local authority.

This guidance cannot inform local authorities of what should be done in every case across the whole country. There must be flexibility to allow adoption of innovative means and methods to resolve problems. Local authorities will wish to establish their own guidelines and constitutions for their local access forums and may wish to refer to the SNH/ Paths for All Partnership's guidance for organisations establishing local access forums: "Local Access Forums" A Guide to Good Practice (published in 2002). That guidance should be read alongside this guidance.

Section 15

... However, the consent of the landowners is still required before any work can be undertaken the provisions in section 26 only removes the requirement to enter land at a reasonable time and the giving of notice of when the aforementioned work will be undertaken.

It is not expected that there will be many circumstances where a landowner's consent is not given. However, if this were to be the case then local authorities should refer the matter to their local access forum that may be able to provide assistance and mediate in the dispute.