
CAIRNGORMS LOCAL OUTDOOR ACCESS FORUM

Title: Outdoor Access Casework

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

Advice sought:

1. No specific advice is sought but Forum members are invited to ask questions or make points as they see fit
2. This paper looks at outdoor access cases which are being dealt with by the Park Authority Outdoor Access staff over the year 2008-09. The spreadsheet is presented in alphabetical order according to Community Council area. **Live** cases (active and on-hold ones) are presented at the top of the sheet; and cases that have been dealt with and **closed** during the year so far at the bottom of the sheet.

STATUS OF CASES¹

Status	As at Feb 2009	As at Nov 2008
Live	40	42
Closed	27	22
TOTAL	67	64

3. So far this year we have had 67 cases on the books – of which 27 are now closed and 40 remain as live issues. Live issues have been subdivided into those that are a lower priority and *on hold* (not allocated to a member of staff) and those that are higher priority and *active* (and allocated staff time). Issues that have been reported retrospectively as resolved by others e.g. land managers; rangers or other agencies, and presented to us as information, are now recorded separately.

REPORTING SOURCE²

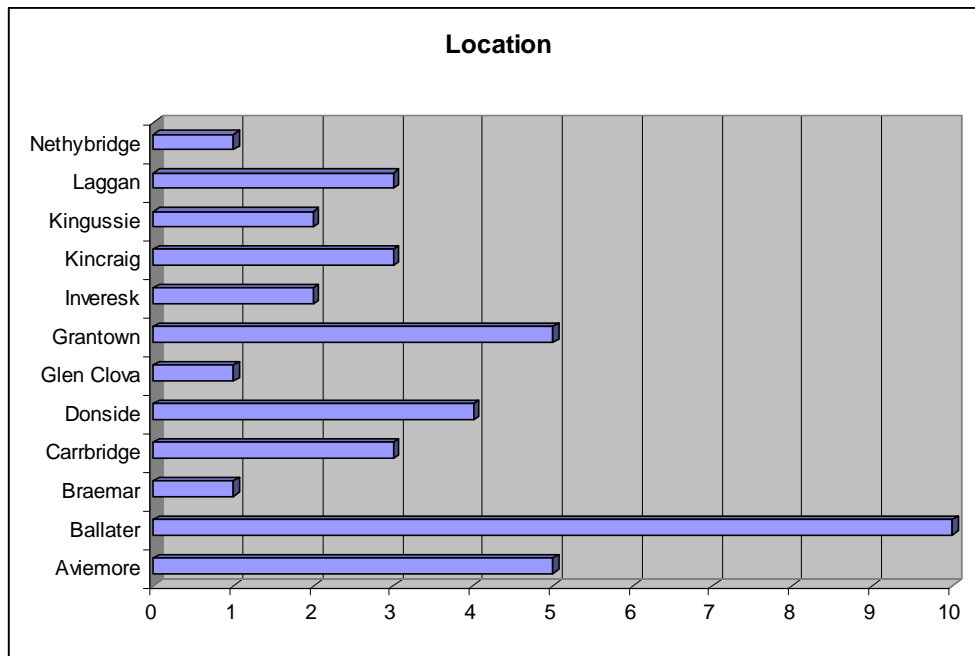
¹ The numbers of the cases (e.g. Case 1) relate to the first column (No.) of the attached spreadsheet.

² Issues are generally raised by or on behalf of *recreational users* and *land managers*. *Official* sources are those that are raised with CNPA by representatives of organisations or agencies e.g. other local authority access staff, rangers and planners; Community Councils; the police; Scottish Natural Heritage, etc. An indication of reporting sources (REC = recreational user; LAND = land manager) is also given along with status of case i.e. closed, live

	Live	Closed
Land manager	1	3
Recreational user and land manager	1	1
Official	2	4
Recreational	36	19
TOTAL	40	27

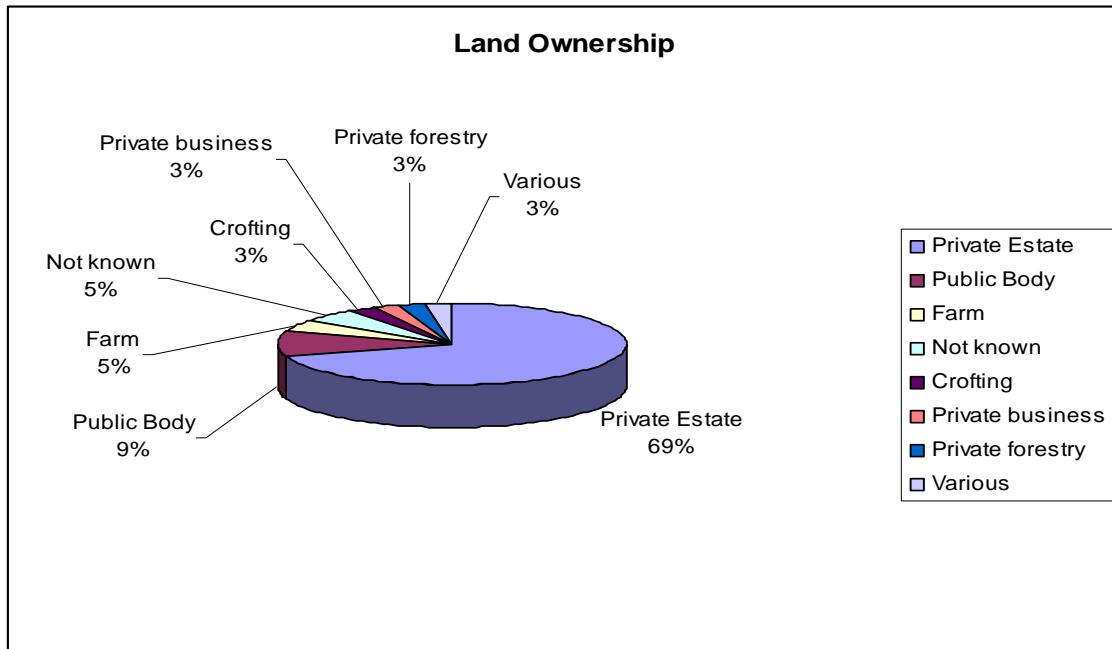
LOCATION

4. The numbers represent the number of individual issues reported in each Community Council area i.e. each sign or obstruction; or incidence of irresponsible behaviour. Some of the issues may be grouped together on various estates or other land management units. The figures refer to LIVE cases only



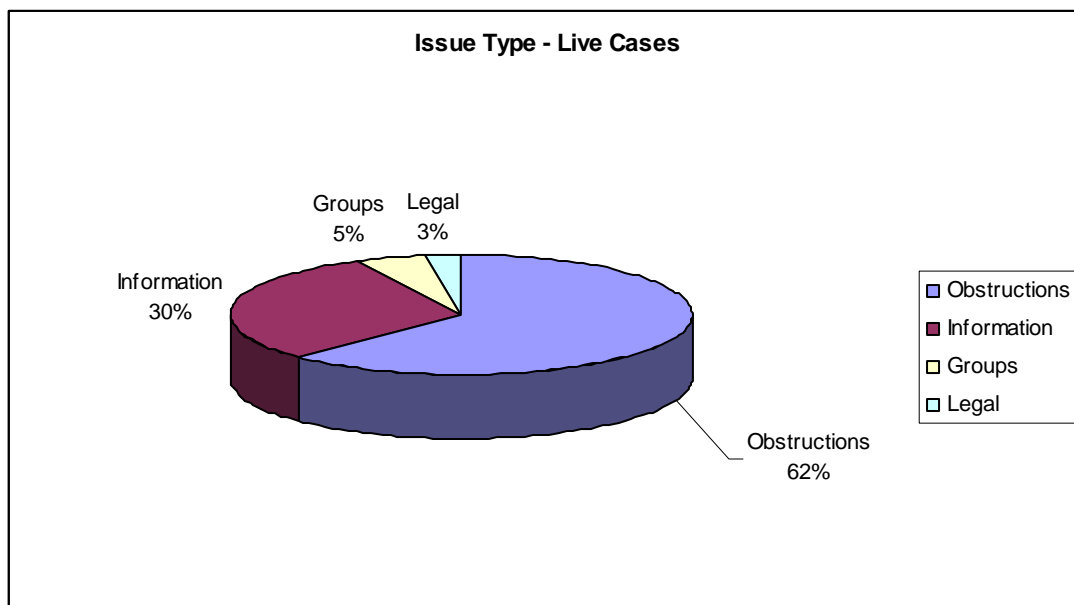
TYPE OF LAND MANAGEMENT OR OWNERSHIP

5. This column allows members to see the nature of ownership or land management in the locations where access issues are being reported. Most are occurring on rural open land (estates, farms or crofts) or private woodland; a few relate to areas where land may be owned or managed by public bodies, local authorities, private individuals, or managed by community groups; and the smallest proportion directly within urban areas. The figures refer to LIVE cases only.



TYPES OF ISSUE

- a) **Obstructions** - includes physical barriers such as gates, fences, stiles, ploughed fields, dangerous animals, cattle-grids
- b) **Information** - includes signs, leaflets, and other written information
- c) **Behaviour** - includes confrontation, on the ground conflict reported by either land manager or recreational user)
- d) **Groups** - includes organised events, activity groups e.g. DofE, congregational camping
- e) **Legal** - includes rights of way, query over sections of the Act, planning, path agreements
- f) **Privacy** - queries about curtilage, reasonable privacy etc
- g) **Water** - any water based issues



REVIEW OF CASES

LIVE CASES

Case 4 Aviemore – Aviemore Highland Resort, fence at the top of Laurel Bank Lane. On January 15th, the Sherriff dismissed the arguments of AHR concerning curtilage and 'retrospectivity' but agreed that the case for land management should go to a full hearing. However the solicitors acting for MacDonald Hotels have lodged an appeal against the decision made by the Sheriff. The appeal has been made to the Sheriff Principal and the grounds relate to their view that the date at which the fence and hedge were erected was prior to the Act coming into effect and therefore the Notice served on them by CNPA was not competent. The appeal will have to be heard before continuing with the original case.

Case 9-13 Ballater – see Abergeldie Update Paper 2

Case 15 Ballater – this was a further report of a Beware of the Bull sign near Ballater. One of the two original reported signs was not located on the site visit but another was found – both at entrances to an enclosed field. There was no recent evidence of stock and the signs are very old and rusty, however the field is easily circumvented and not on any access routes so does not represent a high priority for action.

Case 16 Braemar – a meeting was held on January 26th regarding alternative provision for camping in Braemar. Four sites have been identified for potential development and an afternoon of site visits is being arranged for February /March time involving community members, planning advisory staff from the CNPA and Aberdeenshire Council.

Case 17 Carrbridge – a site visit in November confirmed that the obstruction remained in place – a locked and barbed wire stock gate. However the case is not a high priority as there is little evidence of use, and paths, on either side of the gate. The complainant will be notified that no further action will be taken at this stage, but that a watching brief will be kept if other complaints surface.

Case 24 Glen Clova – a complaint has been received regarding an electrified fence in the Angus Glens. However, it is not ascertained whether it is a landscape despoliation concern, or an access issue (or both!). Further information is being sought.

Case 27 Grantown – this case involves a gate into a field through which a path goes has been locked since ponies were put in to graze. Resolution of this issue is being encouraged through pursuit of an SRDP application.

Case 29 Grantown - concerns a locked, difficult to by-pass gate across the Dava Way. Resolution of this issue is being sought as part of a community based SRDP application.

Case 28 Grantown – this case concerns a locked stock gate on a Right of Way between open hill ground and upland enclosed grazing. The gate has been consistently locked now on the last two site visits and contact with the land manager is the proposed next step.

CLOSED CASES

Case 60 Kincaig - this is resolution of an old issue concerning signage prohibiting dogs. The “no dogs” signage is located within business premises so access rights do not apply to the area of land in question.

Cases 61 Kingussie – this case concerned a complaint from a local person planning to lead a Ramblers Walk along an old military road and Right of Way. A recently locked deer gate barred the route. Contact was made with the Estate, a site visit arranged and it was agreed that the gate would be left unlocked. In return, the CNPA provided laminated signage to alert walkers and others to the need to ensure that the specific gate is kept shut.

Case 62 Kirkmichael – this case involved a locked gate to a river side fishing and picnic spot. The gate was unlocked at the last site visit in November 2008 and the case has been closed as a consequence.

Case 63 Laggan – this case involved a complaint about a fence blocking access to a small viewpoint. The fence has been in place for some 10-15 years and is some way off an existing route, and proposed core path. There is no evidence that people have a desire to access this top at present, judging by the lack of complaints over 15 years, and by the lack of a desire line to the top. The complainant has been informed by the Park Authority and the public body land owner that no further action will be taken at present but that should demand rise, the matter will be addressed. The complainant has indicated that he is happy with this position.

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