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## CAIRNGORMS LOCAL OUTDOOR ACCESS FORUM

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**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 2009-10. **Live** cases 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 – each sector is presented in alphabetical order according to Community Council area. Cases that are ‘greyed out’ are ones where it is considered that the issue is no longer an access issue but can be dealt with under other mechanisms such as SRDP applications; or improving paths under CPP or community path network improvements

### **STATUS OF CASES<sup>1</sup>**

<b>Status</b>	<b>As at August 2009</b>	<b>As at May 2009</b>
Live	39	48
Closed	22	0
<b>TOTAL</b>	<b>61</b>	<b>48</b>

3. At the start of April 2009, we have carried forward 48 live issues. This rose to 61 over the past couple of months but already 22 cases have been resolved and closed. Live issues have been subdivided into those that are a lower priority and generally not allocated to a member of staff; and those that are higher priority and allocated staff time. Issues that have been reported retrospectively that have already been resolved by others e.g. land managers; rangers or other agencies, are recorded separately.

### **REPORTING SOURCE<sup>2</sup>**

	Live	Closed
Land manager	1	1

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

<sup>2</sup> 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

Recreational user and land manager	0	0
Official	1	1
Recreational	37	20
<b>TOTAL</b>	<b>39</b>	<b>22</b>

## 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.

CC Area	Live Cases	Closed Cases	Total for CC area	As at May 2009
Aviemore	1	5	6	6
Ballater	9	4	13	12
Carrbridge	1	2	3	3
Cromdale	1	-	1	-
Dalwhinnie	1	-	1	-
Donside	4	3	7	5
Glen Clova	-	1	1	1
Glen Isla	-	1	1	1
Grantown	5	1	6	4
Inveresk	-	2	2	2
Kincraig	5	-	5	4
Kingussie	4	-	4	2
Laggan	5	-	5	-
Newtonmore	1	3	4	4
Nethybridge	2	-	2	
<b>TOTAL</b>	<b>39</b>	<b>22</b>	<b>61</b>	

## 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.

## TYPES OF ISSUE

Issue Type	Description	CASES
<b>Obstructions</b>	includes physical barriers such as gates, fences, stiles, ploughed fields, dangerous animals, cattle-grids	<b>39</b>

<b>Information</b>	includes signs, leaflets, and other written information	<b>16</b>
<b>Behaviour</b>	includes confrontation, on the ground conflict reported by either land manager or recreational user)	<b>2</b>
<b>Groups</b>	includes organised events, activity groups e.g. DofE, congregational camping	<b>1</b>
<b>Legal</b>	includes rights of way, query over sections of the Act, planning, path agreements	<b>3</b>
<b>Privacy</b>	queries about curtilage, reasonable privacy etc	<b>0</b>
<b>Water</b>	any water based issues	<b>0</b>

## REVIEW OF CASES

### New Cases

**Case 12 Cromdale** – a land manager reported that a gate on his tenants’ land was being persistently left open. It appears that this is almost certainly a neighbour issue. The gate goes into a field over which there are no paths, and occasionally contains stock including a bull. CNPA offered to provide signage, this has been accepted.

**Cases 13 Dalwhinnie, 26 Kincaig, 30 and 31 Kingussie, and 36 Laggan** – a series of locked gates, cattle-grids and difficulties with access was reported to us from a horse-rider who had recently undertaken a trip around the Park area. Most of them are situated on upland tracks and in the passes, several of them over well-used rights of way. Site visits pending.

**Case 35 Laggan** – “no camping” signs have been erected at a roadside location near the Spey, in a fairly remote location. Site visit pending

**Case 38-39 Nethybridge** – an electric stock fence has been erected which interferes with access to a viewpoint in a small woodland used for pheasant rearing. A land management sign has also been put up but the wording doctored so that it is no longer compliant with the Scottish Outdoor Access Code. Site visit pending

**Case 52 Donside** – a locked gate on a right of way was brought to our attention by a horse-rider. Contact was made with the Estate who acknowledged the oversight and the gate was unlocked with immediate effect. Probably our quickest resolution of an access issue to date!

### Updates on Live Cases

**Cases 5-9 Ballater** – the land manager has refused the offer of the CNPA to install self closing deer gates on the grounds that none can be guaranteed to contain deer or stock as effectively as a kissing gate system.

**Case 20** – this concerns a locked gate blocking a right of way on a vehicle track giving access onto moorland and over into Morayshire. No alternative exists but to climb over the gate at present. The landowner has been contacted and recommended a number of different gate designs, and has yet to come back to us with his thoughts.

**Cases 21-22 Grantown** – this case concerns a locked gate and a kissing gate on the Dava Way, a long distance route which forms part of a community network of paths. The route is suitable for multi-use, being the track bed of an old railway. The estate owns one of the gates and has indicated they are happy for us to form a gap at the side of it – the other gate is the responsibility of the local authority and we are currently negotiating over that one with a view to removing the kissing gate and creating a gap. There are no stock issues.

### Recently closed cases

**Case 43 Aviemore Highland Resort** – see paper on recent court cases

**Case 48 Ballater** – this case concerned a complaint from a member of the public about horse use on the Old Deeside Railway line, a route which has been built and intended for multi-use. The complaint came at a time when new surfacing had been applied and hoof marks were apparent on the route, but now it has had a chance to bed in the surface is more robust. The complainant was informed by this by Aberdeenshire Council access staff and there have been no further repercussions.

**Case 49 Carrbridge** – a local walking group reported a locked stock gate with no alternative access on a route between two communities. Having visited the site it is clear that the route is little used and those that do walk there, climb the gate. The case has not been raised in any other quarter and we have written to the complainant indicating that we will not be taking this case up unless there are further complaints.

**Case 50 Carrbridge** – this has been one of our biggest successes to date! Concerns were raised with us starting in 2005, largely from residents of Aviemore, regarding several locked deer gates making access to the hill and an extensive network of tracks, difficult particularly for cyclists although the 8' high ladder stiles presented challenges for some walkers too. The Estate made an application under SRDP for new gates, amongst a range of other measures, and has been successful with its application. Consequently, six of the stiles will be replaced by self closing deer gates within the next couple of months.

**Case 54 Glen Clova** – an electric fence has been erected on the march of two estates in Glen Clova. A member of the public raised the matter with the Park Authority on the grounds of visual impact and access. Nearly all the fence falls on local authority ground and the access officer there has indicated that he will check with the estate regarding the provision of crossing points. The CNPA have written to the complainant for further information to help this process.

**Case 55 Glen Isla** – a “no access sign” was reported to us by a member of the public coming off a hill route in Glen Isla. The sign appears to be a bit of an anachronism in that it is rather decrepit and old, and a nearby gate on the route is open so there is no accompanying physical barrier to access. It is close to the termination of a core path so it is intended that it will be dealt with as part of a CP implementation plan, but no further action will be taken at present.

**Case 58 Inveresk** – this case concerns out of date information about access, on a trailhead sign which predates access legislation. The trail head sign was put up by the Local Authority and it is intended that we will offer the Authority assistance as and when the interpretation is replaced.

**Cases 59 - 60 Newtonmore** – all these cases concern access for horses in and around Newtonmore. All have been resolved through discussions between the complainant; staff at the Wildcat Trail and CNPA access staff. An interesting legal issue about horse and carriage use (whether access rights apply and where it would be responsible to do so) was raised for the first time within the Park area. One of the cases involved a route that was blocked in the course of a planning development – that has now been opened.

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