

Loch Access Forums and the priority afforded to access in our National Parks

Description

The Land Reform (Scotland) Act 2003, which introduced access rights, also gave Scotland Local Authorities and National Parks new powers and duties as “Access Authorities”. Section 25 required Access Authorities to set up one or more Local Access Forums (LAFs) to advise on the exercise of access rights in their area and to help resolve disputes.

25 Local access forums

- (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.
- (2) Those functions are—
 - (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—
 - (i) the exercise of access rights;
 - (ii) the existence and delineation of rights of way;
 - (iii) the drawing up and adoption of the plan referred to in paragraph (a) above; or
 - (iv) the use of core paths,towards the resolution of the dispute.
- (3) A local access forum consists of such persons as are appointed to it by the local authority.
- (4) The matters to which the local authority have regard when making appointments to the local access forum shall include—
 - (a) ensuring reasonable representation in the forum of—
 - (i) bodies representative of persons with an interest in any of the matters mentioned in subsection (2)(b)(i) to (iv) above;
 - (ii) persons having such an interest;
 - (iii) bodies representative of the owners of land in respect of which access rights are exercisable or in which there is a core path; and
 - (iv) owners of such land, and
 - (b) ensuring a reasonable balance among those mentioned in sub-paragraphs (i) to (iv) of paragraph (a) above.
- (5) The local authority may appoint one or more of its own members to a local access forum.
- (6) More than one local access forum may be established for the area of a local authority.
- (7) The local authority may pay to members of the local access forum such expenses and allowances as the local authority determine.
- (8) Ministers may give guidance to local authorities to assist them in the performance of their functions under this section.

While the Land Reform Act did not specify how often LAFs should meet, the second edition of Local

Access Forums, A Guide to Good Practice (2019) ([see here](#)) is clear about their importance. An introductory paragraph headed “Ambitious aims” reads:

“Local Access Forums have a key role to play in Scotland’s distinctive approach to managing outdoor access, and there are high aspirations for them. It is hoped that they will become valued new local institutions – independent, expert and trusted – that help access authorities, their staff, land managers and all who want to enjoy Scotland’s outdoors make a success of the new legislation. So it’s time to take stock and make sure we are aiming high enough.”

Important stuff!

(Declaration: I was a Director of Paths for All, who produced the Guidance with SNH but played no part in its production).

The role of LAFs during the Covid crisis

Given this, and the unprecedented restrictions on access during the two major lock-downs of the last year and the equally unprecedented numbers of people visiting the countryside in-between, one might have thought that the LAFs would have played a more prominent role in the last 12 months than ever before. In fact the opposite has happened in our two National Parks.

In the LLTNPA there have been no meetings of the LAF for over a year and a half and none have been scheduled for 2021:

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Local Access Forum

2020 meetings

13 February

14 May

20 August

19 November

Please note these meeting dates could be subject to change.

2019 meetings

- 26 February -NPA HQ, 18:30-20:30
- 9 May
- 22 August
- 21 November –*cancelled; new date to be scheduled for 2020*

Screenshot LLTNPA website, section on meetings 12th March 2021. Those underlined show the meetings that actually took place. There are none scheduled for 2021.

An insight into the reasons for this was given in a paper to the LLTNPA Audit and Risk Committee last Tuesday ([see here](#)) on actions relating to good governance that are behind schedule:

5.2 Appendix Two – Outstanding Recommendations

Title	Recommendation	Priority Rating	Planned Implementation Date	Management Comments	Revised Implementation Date	Revised Implementation Date changes
WDC1819 - Access - Recommendation 3	<p><u>Remit of Local Access Forum</u></p> <p>The National Park should consider enhancing documentation around the roles and remit of the Local Access Forum to include, for example:</p> <ul style="list-style-type: none"> • Job specifications for Forum Members; and • A remit/terms of reference document to assist with the running of the Forum (this remit could cover areas such as Equal Opportunities, Structure, Membership (including how potential members are nominated and the length of time for which members are elected) and Administration and Finance). 	Low	01-Apr-19	<p>Delayed.</p> <p>The draft version was provided to Forum members and comments received. Due to COVID-19, the normal Forum meeting schedule is disrupted, and staff capacity has been diverted to other urgent tasks. Therefore, this item is currently on hold.</p>	<p>On hold due to COVID-19</p> <p>(31-May-20)</p> <p>(31-Dec-19)</p> <p>(31-Oct-19)</p>	4

Two years since the LLTNPA first committed to drawing up a document setting out more clearly the remit of their LAF and roles of its members almost no progress has been made. This should not have been difficult given NatureScot's 78 page Guidance document – for once that organisation deserves praise – but despite LAF members having commented, nothing has progressed. At a time when the LAF should have been active as never before, it appears part of the reason it has not met is the LLTNPA is not clear about its purpose – or perhaps they are only too clear and as a result have deliberately sidelined the LAF?

The position in the Cairngorms National Park Authority is only a little better. Although their LAF met

Via Lifesize Video Conference

meeting.

Cairngorms Local Outdoor Access Forum >

16th October, 2019

Cairngorms National Park Authority Office, Grantown-on-Spey

Cairngorms Local Outdoor Access Forum >

20th June, 2019

CNPA HQ, Grantown-on-Spey

Cairngorms Local Outdoor Access Forum >

20th November, 2018

The Deeside Inn, Ballater

Cairngorms Local Outdoor Access Forum >

22nd May, 2018

The Pagoda, Grantown-on-Spey






Everyone appreciates that at

the start of lockdown last year most public authorities were in chaos, but within a few months all had managed to set up on-line meeting systems. After that meetings became easier to attend than ever before, as there was no need to factor in travelling.

This is well illustrated by the National Access Forum, a non-statutory body, set up by SNH/NatureScot to advise them. While its March meeting was, unsurprisingly cancelled, it has since met on [5 June 2020](#), [16 September 2020](#) and [27 January 2021](#). Representatives of the National Park Access Teams were present at all three meetings, raising questions about just why they failed to organise LAF meetings locally? Indeed, unlike other Access Authorities, our National Park Authorities have a place on the National Access Forum based on the assumption that they exemplify good practice in relation to access in Scotland. If they cannot put their own house in order, our National Park Authorities shouldn't be on the National Access Forum.

Of the two other Access Authorities I checked, Highland Council LAFs appear to have stopped operating last year (again just when most needed – think the North Coast 500 chaos). But, to their credit, Perth and Kinross Council, parts of which lie within the boundaries of Scotland’s two National Parks, continued with their meetings:

Meetings in 2020

Date of meeting	Agenda	Note of
14 February 2020	 Agenda 14.02.20 [7Kb]	 Minut
May 2020	No meeting held due to Covid-19	
August 2020	 Agenda 27.08.20 [7Kb]	 Minut
November 2020	 Agenda 01.12.20 [115Kb]	-

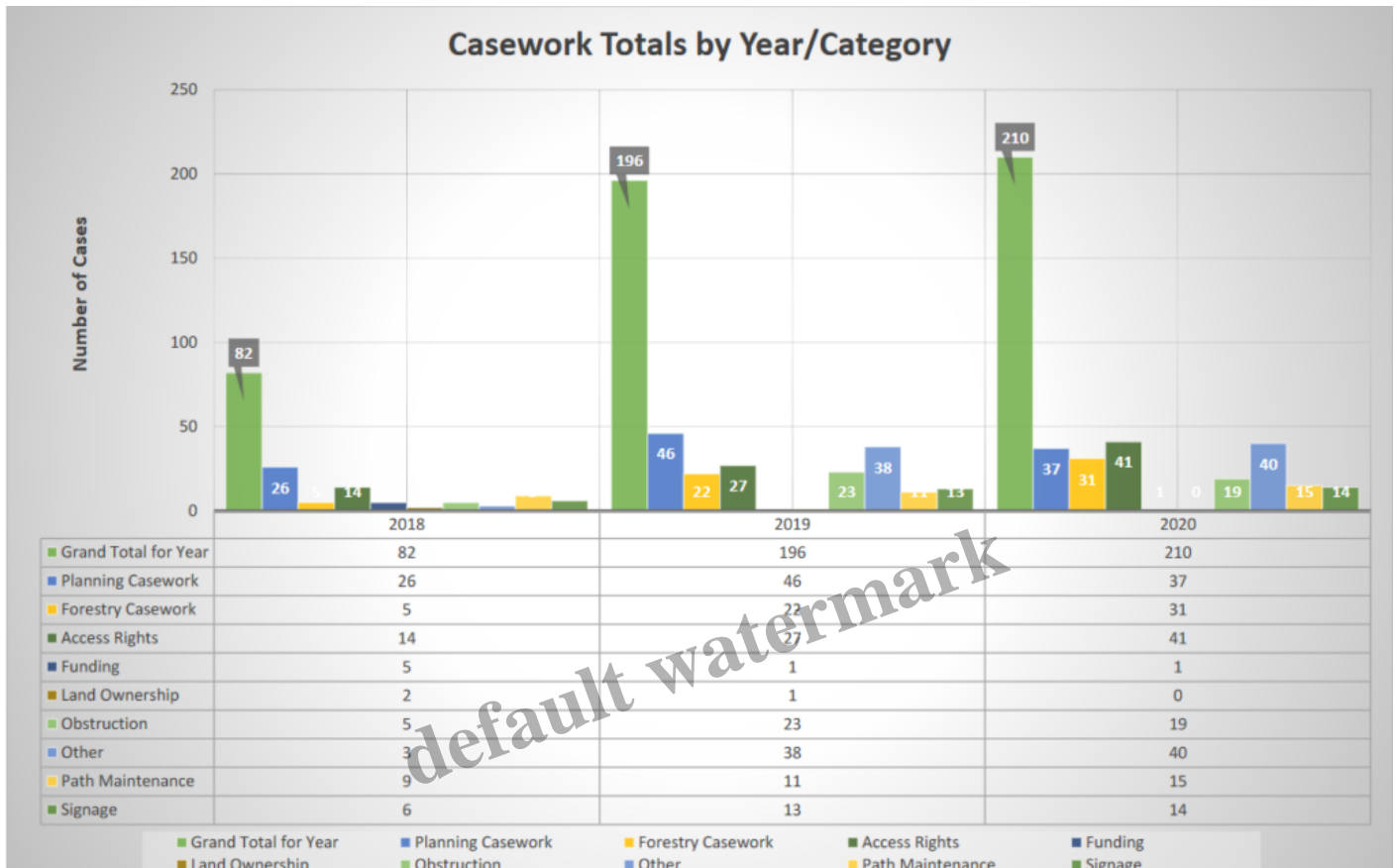
And that was despite significant cuts in their staff responsible for access matters (the Council has just agreed to spend £240k both this year and next on a new pilot Ranger Service). All credit to them, but the only reasonable conclusion is that our National Park Authorities, who have greater access staff capacity than anywhere else (I am not claiming its sufficient) chose not to convene their LAFs when they were needed more than ever before.

Issues within our National Parks that might have been considered by their LAFs

In a series of posts over the last year I have shown how, in the Loch Lomond and Trossachs National Park: more people have been charged with breaching the camping byelaws than in all the previous years together; the police have started to use the offence of culpable and reckless conduct against hillwalkers; and record numbers of people have been issued with parking tickets just for going out for a walk. ([See here](#) for summary and links to posts last year and [here](#) for further analysis of the impact of parking fines on West Loch Lomond). If all of this should not have required the LLTNPA to consult the LAF, I am not sure what would. But then the LLTNPA has a long history of sidelining its LAF dating back to the consultation on the camping byelaws back in 2014 ([see here](#)) and has delayed the production of its 2018-23 Outdoor Recreation Plan till June 2021 ([see here](#)).

It is more than a little ironic, therefore, that Don Milton, the chair of the LLTNPA LAF which rarely meets, has now been elected chair of the National Access Forum, which meets regularly. Let’s hope he uses his position on the NAF to help put the LLTNPA LAF in order and expose their failure to produce an Outdoor Recreation Plan.

The CNPA approached lockdown and its release much more sympathetically than the LLTNPA. There is very little evidence of folk being criminalised for going to the countryside in the Cairngorms. That, however, does not mean there are no problems:



The meeting that the CNPA did hold in February contained a report on access casework. The chart shows record numbers of cases relating to access rights and another part of the report ([see here](#)) that most of these happened in just a few months, between July and October. (It would be interesting to know if Highlands and Islands Enterprise unlawful closure of the road up Cairn Gorm is on their caseload).

Despite the surge in issues, it appears the CNPA did not see the need to consult their LAF about what was happening.

Discussion

The strategic issue here, which doesn't just affect access, is that increasingly public authorities are resistant to any meaningful engagement. Senior managers see engagement as risking targets, budgetary control and all the other superstructure associated with the top-down centralised control that has come to characterise Scotland. The result, however, is the job of staff gets harder and harder, trying to have to do more with less. If instead Access Authorities turned this around and started to engage with the public Local Access Forums could become the public voice of the need for investment

in infrastructure that the countryside in Scotland so badly needs. Our National Parks could be taking the lead on this.

The late great Alan Blackshaw – whose research undermined the claims that there was an effective law of trespass in Scotland and so paved the way to access rights – said 15 years ago that the greatest threat to access rights in future would not be landowners (who simply don't have the resources to stop people going onto their land) but public authorities. Sadly, the evidence from the last year suggests he was right.

Category

1. Access rights
2. Cairngorms
3. Loch Lomond and Trossachs

Tags

1. access rights
2. Camping bye laws
3. CNPA
4. LLTNPA
5. scottish natural heritage

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Author

nickkempe

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