

Citizens exercising access rights or “access takers”?

Description

The term “access taker” appears to be becoming part of lexicon of those charged with overseeing access rights, including our two National Park Authorities. While messages directed to the public don’t yet use the phrase ([see here](#)) – “welcome access taker” has a horrible ring – behind the scenes this is how many access officers are referring to the public. This post will argue that its use betrays a frame of mind that is inimical to access rights and is part of a wider ideological attempt to undermine the gains secured for the public by the Land Reform (Scotland) Act 2003.

How did the term “access taker” originate?

The term “access taker” is not used in the Land Reform (Scotland) Act 2003 or in the Scottish Outdoor Access Code which sets out the framework for both exercising and managing access rights.

Establishing when the term was first used and by whom would probably take extensive research. But in the 2015 plan “Active Cairngorms” ([see here](#)), which was recently considered by the Cairngorms Local Outdoor Access Froum for a refresh, there is a reference to “recreation takers”:

“Organised outdoor events should follow Cairngorms National Park Authority guidance and take place in locations and at times of year that that do not disturb sensitive wildlife or significantly affect other recreation takers.”

Since then the term has morphed into “access takers”. Here are two examples from this year:

“Purpose and Make-up of the Forum

The Forum comprises representatives of a balanced range of relevant interests including both access ‘takers’ and land managers”

This quote is from the recruitment information for new members to the Loch Lomond and Trossachs National Park Authority (LLTNPA) Local Access Forum (LAF) discussed at their meeting on 30th November ([see here](#)). While the word “taker” in this first example is in inverted commas, later on the paper refers to “Water-based access takers (e.g. wild swimmers, paddleboarders)”.

Unfortunately no-one on the LAF questioned what wild swimmers or paddle boards could take from water.

The term was also used in the CNPA Board Paper in June ([see here](#)) which considered what could be done to address the plight of the capercaillie in the Cairngorms:

“There is broad support for refuges that employ a greater suite of measures to reduce human disturbance than consistently employed currently and for refuges that are tailored to ensure a proportional response and equity amongst access takers.”

The use of the term in this last example is in my view not neutral. The issue is portrayed as one of capercaillie versus access takers.

What is wrong with the term “access taker”?

First, “access takers” implies that there are also access “givers”, i.e. landowners. The dictionary meaning of “taker” refers to people who are taking something that is being offered. This is incompatible with how the Land Reform (Scotland) Act was framed. The very first clause starts:

“Everyone has the statutory rights established by this Part of this Act”.

This includes landowners, great and small. Access rights are a legal right, not something on offer. When a vehicle driver exercises their right to drive down a public road no-one is giving them anything and its similar with access rights.

The term “access taker” also has a pejorative sense, as in “givers and takers”. Once people exercising their access rights are portrayed as “takers”, as undeserving, this then opens the door to various measures which constrain those rights. For example, if access officers can portray visitors out to enjoy the countryside as “takers”, it becomes much easier to justify imposing various restrictions on their rights, such as all the signs in the Cairngorms National Park which say “Keep to the Path” ([see here](#) for example). And once public authorities start viewing landowners as “access givers”, why not allow them to charge for it, if not directly then indirectly for example through extortionate car parking charges ([see here](#))?

Central to the ideas behind the Land Reform Scotland Act was that for access rights to work both citizens exercising those rights and landowners should behave responsibly. As far as landowners were concerned, it was accepted that facilitating access rights would in some cases incur costs (disability friendly gates, paths etc) that it would be reasonable for access authorities to meet. The problem is that budgets relating to access have been slashed.

It is not a coincidence that as Access Authorities resources have reduced, access staff have started to refer to “access takers” and have started to see people exercising their access rights as the problem.

What needs to happen?

There is no justification for access authorities to use the term “access taker”. If they need a general term that covers everything from swimming to mountain biking, they could use the neutral term “outdoor recreationists”. Or, if access authorities also want to refer to people who are exercising the right of passage (i.e. to get from A to B), they could simply refer to “everyone exercising their access rights”. Both National Park Authorities should know better and stop using the term “access taker” now and also start making the case for what is needed to support landowners who do want to proactively invest in infrastructure that supports access rights.

I will be writing to the National Access Forum asking them to rule that the term “access takers” is incompatible with the Scottish Outdoor Access Code and I hope that organisations representing

outdoor recreation will also do so.

Category

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

Tags

1. access rights
2. CNPA
3. LLTNPA
4. local access forum

Date Created

December 9, 2022

Author

nickkempe

default watermark