

Scottish Countryside Access Network (SCAN)

Conference

April 1999

*“Countryside Access: Behaviour, Responsibilities
and Thorny Issues”*

Introduction, Overview and Themes for the Day, John Grant

I am very pleased and honoured to be able to contribute to this very topical subject which gets to the heart of how we live and get on together in our new Scotland. I would like to thank your committee for their welcome today.

The SCAN committee chose the theme of countryside access responsibilities because it is one of a whole range of legal, technical, educational and funding issues on which SCAN supporters need action and it also reflects the national agenda being tackled by the Access Forum and gives others the opportunity to be involved in this important discussion.

This is a historical time for Scotland, it is important that we get the right solutions for the future and that is why SCAN wants to involve you, the doers and the decision makers, in this process. There will be further opportunity when this conference is followed up in November with another on Path Maintenance, which is a very appropriate subject for SCAN's 10th Conference. Also, I am asked to remind members that this conference will be followed immediately by the AGM at 4.30pm.

My background to being here is that I happened to be in the right place at the right time. In February I was participating in the Access Forum workshop on developing a new Scottish Countryside Access Code (with advice from Scottish Natural Heritage). I was caught loitering at the coffee break in a blank frame of mind and, it being my second day on the Forum, I of course jumped at the opportunity to be your Chair today. Since then I have had time for reflection and it would be helpful for us today to consider how the Access Forum was able to advance the debate. As Access professionals you will all be familiar with the history and work of the forum, its trials, and its success stories so I do not need to dwell on that. I would, however, like to take five minutes to remind us all of the core principles of working which led to our achievements so far. By being up front about these principles today, it should reward us with a positive and rewarding conference, as well as providing a checklist that can help us contribute to the development of our Local and Community Access fora over the coming months. I have identified these as six principles and their headings are: commitment, communication, equality of representation, understanding, sensitivity and patience.

COMMITMENT. We have to improve arrangements that the different groups can see real benefit in moving forward and their leaders see advantage in working together, and are prepared to do so for long hours. That is clearly the case with access; it matters to us all and it is close to our emotions. You can be assured that all permanent members of the Forum have these qualities. You are being well served. (members here: Nick Kempe MCoFS, David Morris Ramblers, Marian Silvester SLF) The process needs to be serviced by a hard working and professional secretariat and I am sure that you would like to join me in congratulating John Mackay, Richard Davison and Paul Esrich of SNH and Campbell Gerrard of Scottish Sports Council, for their commitment, patience and persistence in dealing with us all. However committed the representatives and however patient the secretariat, for success, there also needs to be a strong and independent chair which separates the issues, ensures that discussion remains on the point and clarifies and summarises the argument and conclusions. I will try to do my very best for you today.

COMMUNICATION. The Forum would be no use if it only communicated with itself; we are all part of a process which, if it tries to go too fast, will leave its constituency behind and fall apart. It can only take one step at time. It is essential that at each stage members communicate

effectively with their own member groups and also with others sharing similar interests so that, in time, commitment and ownership spreads through all of society, both to all groups of interest as well as to all parts of Scotland. By being here today we are joining in that bridge building process.

EQUALITY OF REPRESENTATION - The Tripartite System. The Access Forum came together by recognising that to progress the access debate it was essential to give all the key groups of interest equality of representation. Equal numbers of people representing those who enjoy access, those whose land or work place provides the place for enjoyment, and those whose work it is to assist with provision for access. The providers, the users and the enablers. Meetings are conducted by a neutral chair who determines how this balanced approach is achieved and how ideas are floated and recommendations are phrased. {Perhaps for the purpose of today I should add that this would be an impossible task without the support of the members}.

UNDERSTANDING AND CONSENSUS. Understanding and consensus through a problem solving approach. There is agreement that the process is not about taking sides or winners and loser. It is about arriving at mutual understanding of the aspirations of others, responsibilities and rights, duties and powers, and by reaching a shared vision of access which demonstrates respect. Recognition and time is given to all, and especially those not represented at the table. That is real consensus.

SENSITIVITY AND LANGUAGE. Avoidance of personal and emotional language is essential as all it does is cultivate entrenched positions. Language has become the key to progress. It is the subtle balance of the phrase and the way it is expressed which provides the way forward. No emotive words; be clear; honest and; identify and remove any fudge clauses - they are simply not acceptable, so return to the issue and give it time until the solution is crisp and clear. If possible, ensure that phrases are neutral and if not, look for balance between phrases, clauses and sentences. One for them, one for us, and one together; or much better, three for all of us. Whether it is a learned paper or everyday conversation we should be checking what we write and say to ensure that this balance is achieved. Concentrate on what WE will do {duties} as opposed to what we will make THEM do {powers}.

PATIENCE. For me the Access Forum is not an event, it is a process, or a fascinating journey of discovery. It is opening the door to a better future for people living and working on the land, for people enjoying the countryside, for wildlife and domestic stock, as well as for a more positive and satisfying future for those working with local authorities and agencies. For all there will be more peace and more enjoyment leading to more practical achievement. We are making a good start but at this point of the process some are doubtful and most have never heard of it. We are at the delicate stage when one rash comment in public could set us back 10 years. The tripartite approach has opened the door to consensus and it is up to us to understand and influence the Access Forum's recommendations and carry their message forward using the principles which have demonstrated success.

Today, our subject is behaviour, responsibilities and thorny issues. The Secretary of State has accepted the advice of the Access Forum that there should be a right of access, to be exercised with responsibility for informal recreation and passage. Today we are focused on the practical implications of responsibility. My instructions from the committee are to avoid the old tired questions of "What's a right of way?" or "Who's liable?" We are not talking about the detail of legislation but we do need to express our views on all our responsibilities and how they should be carried out and clarified in the new climate of working together.

As you can see from the programme, if we all do what we are told, there is a generous hour and a half for plenary sessions and, if time permits, there will also be opportunities to ask questions of clarification immediately following the speakers.

Legal Overview, Janet Hood

A Lawyer's View on Rights of Way and Access to the Countryside

Are there problems with the existing law relating to access, rights of way and general enjoyment of the countryside?

Well, the answer to that one has to be YES or none of us would be here today. I would stress here that today's presentation represents my opinion and not necessarily that of Aberdeenshire Council. I have been asked to consider, however, briefly the position relating to: Occupiers' Liability, Motorbikes, Dogs and Poaching.

I am always being asked "What if someone injures themselves on a right of way or on the grounds of an access or path agreement? Who is responsible and what care should be taken to prevent injury?"

In general, persons entering the countryside do so at their own risk. As Sheriff Kelbie said in *Johnston v Sweeney* "[Earlier] authorities clearly show that the proprietor of the land is under no obligation to maintain the path [of a right of way] and it therefore seems clear that anyone using a right of way has to take the land as he finds it." This is in particular because rights of way exist whether the landlord will or no, and I think that the same applies to permissive routes where the public have taken access and the landlord is taking no action to prevent them from so doing. This does not mean that the landowner who has a right of way crossing his land has no responsibility to the public whatsoever. He must ensure that his own acts or omissions are not such as to lead to harm to members of the public using the right of way. He would have to be careful to ensure, for example, that he was not depositing dangerous farm implements on the right of way which might cause members of the public to injure themselves whilst they were negotiating a passage round or over the obstruction.

However, the Law is slightly different for created paths and access agreements. In this case, there is an implication that the path or place to which the public is invited is relatively safe. This does not, in my opinion, mean that a created path need resemble a street or pavement in a town, and be able to be traversed by every member of the community however fit or otherwise. Indeed, it would in most cases be impossible to secure the land without making the very term access to the countryside a travesty. What it does mean, in my opinion, and indeed the legislation seems quite clear, is that the local authority shall have the power to take such steps and to carry out such works (including erection and maintenance of fences or notices) as appear to them requisite for protecting the public from any source of danger on the land or on the adjoining land of which they are aware. If, therefore, the council made a compulsory path creation order over land on which a bull was normally kept and this fact was known to the local authority, in my opinion, that local authority would be bound to consider fencing off that part of the path to which the bull would otherwise have access. Similarly, if a path ran near to the edge of a crumbling cliff, signposting warning of the danger or fencing preventing access to the cliff edge, or both, might be appropriate.

Again, if to facilitate access by the public to an area of land or a path the local authority erected a bridge or stile, it would have to ensure that the bridge or stile was kept in good order as long as the public were invited to take access to the land. I consider that the words of Lord Kinross in *Devlin v Jefferay's Trustees (1902) SLT375* still hold true today "if the proprietor in land [here we would have to include the words local authority] invites members of the public to come upon - [the land] for purposes in which he and they are jointly interested [permissive paths would form part of this], I can quite understand that he may be answerable in damages, if they are injured by

some unseen and unusual danger, the existence of which he knew or ought to have known, while they could know nothing about it. It is an illustration of that liability that the proprietor of roads of access which the public are invited to use must keep them reasonably safe, just as the public roads must be kept safe”. However, the makers of paths whether by agreement or compulsion, are not making a street they are merely opening up a way for the public to use recreationally “The duty owed is such care as is in all the circumstances reasonable.” As Ld Pres Dunedin said in *Taylor v Magistrates of Saltcoats (1912) SLT363* “Whoever would suppose for instance, that if a gentleman went walking upon the path at the foot of Salisbury Crags, and went a little too near the edge, slipped his foot upon a loose stone and tumbled down the long slope to Holyrood, in which case he might well hurt himself, he could bring an action against the magistrates because the condition of the path was unsafe?”

If, however, there was a bridge on a right of way which had fallen into disrepair which was obviously unsafe and any normally aware person would be loath to venture upon such a structure, there would be no duty on the land owner to repair the bridge. Persons using rights of way are expected to have some intelligence and the legislation governing landowner’s liability does not cover every accident that can befall buffoons. It might however, be prudent if the landowner was aware of the fault, for him to signpost the bridge accordingly or perhaps better still, to contact his local access officer to see whether there were any funds available to cover the repair. Again, if the landowner had erected the bridge to facilitate the crossing of a stream where, for example, in the past, crossings had been achieved by way of a ford then he would have to ensure it was kept in a safe state of repair or would have to remove it or prevent access to it if it became dangerous.

As all of you are aware, it is possible for rights of way users and interested others, not only local authorities, to maintain and assert rights of way. Care should be taken with this approach. The fact that a party may consider a certain route to be a right of way does not necessarily mean that it is. Action taken for example to clear overgrown vegetation from an alleged right of way may, if it transpires the route was not in fact a right of way, lead to an action for damages being levelled by the landowner at the concerned party. The replacement of a bridge or the closing of a gap with a potentially dangerous structure might lead to a harmed user taking action against the benevolent but uninformed party. Such voluntary actions may also harm negotiations between parties setting the opposite sides at one another’s throats. So please, take care when contemplating such actions and contact your local access officer to find out the lie of the land before proceeding!

Why is any of this important? What does it matter whether anyone has a right of access to the countryside? As this country has progressed, people have, in general, become more and more sedentary. Whereas even in my youth - 20+ years ago - no-one thought anything of cycling 10 miles to the local dance - and you’d have to set out early or it would be over - today that would be unheard of. Children walked to school then and some people still used a mangle to wring out the washing. In other words, most people’s everyday life involved a fair amount of exercise. Nowadays, the car takes us anything from 100 yards to 100 miles or more! Television ensures that most of us sit in of an evening instead of taking part in community activities. This, combined with our traditional diet, is leading to Scotland being one of the unhealthiest countries in the first world.

The Scottish Office is aware of these problems and is trying to assist us to deal with them. Their *National Planning Policy Guideline: Sport & Physical Recreation and Open Space (NPPG)* published in 1996, sparked off a number of initiatives in Scotland. Their aim is to improve the health and welfare of the Scottish nation. The *NPPG* starts with the words “sports and physical recreation

are important components of civilised life and have valuable social, economic and educational roles". It enjoins planning authorities to ensure provision for sports and recreation not only in the provision of urban and sub-urban open space but also to secure better access to the countryside. The government body, Scottish Natural Heritage, has a statutory duty to facilitate the enjoyment of the countryside. Both must try to ensure that a balance is struck between the needs of the landowner and the requirements of the user.

Unfortunately, this balance is not always apparent to the interested parties. As many of you will be aware, local authorities have a duty, in terms of the *Countryside (Scotland) Act 1967* to assert and maintain such rights of way as fall within their boundaries. This duty has been variously rigorously pursued or totally ignored depending on the attitude of the local authority. Now, since the Scottish Natural Heritage publication *Enjoying the Countryside - A Programme for Action* in April 1994, the *NPPG* of 1996, more and more local authorities have taken the question to their hearts and purse, and appointed Access Officers who are charged with ensuring the better provision of access within council areas.

What do the words "assert and maintain a right of way" imply? Certain elements of the public would like to interpret the word maintain to mean that local authorities should level and smooth out the paths of rights of way, filling in pot-holes and building bridges over every gap and burn to enable access for every member of society. Thankfully the duty to maintain a right of way means, as stated in the *NPPG*, that local authorities should protect, keep open and free from obstruction or encroachment, any asserted right of way. This action is normally done, in my experience, by negotiation. Questions concerning rights of way are usually brought to a Council's notice when a landowner - new or existing - decides to prevent or dissuade the public from using what the public has considered previously to be a route traversed as a right. The council officer first decides (this is practical rather than legal) whether the alleged right of way connects two or more public places, whether it looks as if the route exists both on the land and on a map. If Yes, the next step is to ascertain whether it has been used as a right for the last 20 years. Usually the initial probing is done using the splendid questionnaires created by the Scottish Rights of Way Society. If sufficient positive response is obtained, only then would one approach the landowner advising him of the Council's view as to the status of the route. Nine times out of ten, the landowner will say "There's no mention of this in my title deeds. My lawyer said no right of way exists here, this is my land and I can exclude who I want" etc. The task then is to gently persuade the landowner that the evidence is such as to overwhelm his protestations. This can take some time! However, nine times out of ten it is successful and no further action need be taken. The last resort is an action of declaration in the Sheriff Court - a Court of Session. Prior to this the assertor must precognise his witnesses and ensure that he is confident of their assertions, then and only then, proceed to court and hopefully preserve another right of way for the future. This latter action is costly. Councils might not be awarded costs even if they succeed and are certainly going to have costs awarded against them if they fail, so be sure before you go to court.

MOTORBIKES. Sexy status symbol for the 90s man or noisy destructive job transport. Basically - and the Law is rather convoluted here - a right of way is interpreted as a road in the *Road (Scotland) Act 1984*, therefore, unless the right of way was for pedestrians, horse and cyclists only, a motor cyclist would be able to use it subject of course to him wearing a helmet, having passed his test and being licensed and insured. A created path or long distance route is in another category and the path creators would be able to exclude motor cyclists there from. The biker would be committing a criminal offence if he was to ride his machine on land which is not a road or on a footpath or bridleway without permission of the landowner. The usual problem is catching or being able to identify the driver. Physical measure can be taken to prevent the

ingress of bikers to footways, and this is to be recommended where problems occur and finance permits.

DOGS. I do not believe that people actually have a right to exercise their dogs on rights of way or public footpaths, and there are places where dogs are banned. However, many agreements are drawn up which specifically permit dogs to be exercised. Dog owners should remember that it is an offence in terms of the *Civic Government (Scotland) Act 1982 Section 48* to permit dogs to deposit excrement on footpaths or footways and should take action accordingly. The use of the eponymous poop-scoops could prevent many complaints. Again, the main problem here is caused by persons who do not care for the enjoyment of others and it is nigh on impossible to catch and prosecute offenders. What does it mean when one is asked to keep ones dog under control? A well-trained, obedient dog may well be under control whether or not it is on a lead, however, any other mutt would require to be properly restrained to meet that criteria. I know that Pat McCulloch, who is to speak to you later on this subject, will give a far fuller explanation of the law on the matter.

POACHING. Can you fish for trout anywhere in Scotland without permission? It is commonly believed that the answer is Yes, but that is wrong. No fish may be taken in Scotland without permission of the owner of the fishings - for salmon, or the riparian landowner - for trout and other minor fish as appropriate.

Killing wild mammals - under what circumstances is this okay? Except with the permission from the landowner and in season if appropriate, only to perform a humane killing if required, otherwise the killing of such creatures represents a criminal offence.

Most of the problems relating to access in the countryside are caused by ignorance and fear. Education would go a long way to prevent damage to the countryside by users both casual and invited, and would enable landowners to relax their occasionally anti-person attitudes if they were more aware of their rights and duties in relation to the land. The *Concordat on Access* shows a positive attitude on all sides of the access question.

The Law relating to this extremely important aspect of Scottish life requires to be updated and simplified. Local Authorities, landowners and other interested parties should work together in partnership to bring about such changes. Few are clear as to their rights and duties in relation to the land. If greater access to the countryside is hoped for in the public good, adequate not inflated compensation will no doubt be required to be given to landowners when their rights to the quiet possession of their property are disturbed. The *Human Rights Act 1998* will assist legislators to ensure the balance between the public good and individual rights, and can be used as a tool to promote greater and freer access to the countryside to the benefit of all the citizens of Scotland.

Responsibilities - Land managers' Perspective, Marian Silvester

I am very pleased to have the opportunity to take part in this SCAN conference. I recently read that people, who are slightly optimistic, rather than absolutely realistic, are more likely to stay sane. Also, that the optimists are more likely to achieve their ambitions. So, please take what I have to say, not with the proverbial pinch of salt, but with a pinch of optimism.

INTRODUCTION. Looking at the programme for today I expect that we will all find more questions raised than answered - but I feel certain that asking questions, talking together and finding joint solutions to those thorny access issues, is the best way forward.

When I read the Access Forum's proposals last November I, like many others, was pleased because they seemed to be saying all the right things, using all the right words. And a few of those words really stood out for me. Words like balanced, right, responsible and respect.

During this presentation I will talk about the rights and responsibilities of users, agencies and land managers and how mutual respect is important for everyone. I will also talk a little about being realistic and about the need to secure additional resources for access provision.

RIGHTS. The outcome of the Access Forum's deliberations was the recommendation that a new civil right be created in Scotland. That is a 'right of access to land and water, exercised responsibly ...' This is part of a balanced package and calls for a co-operative approach between all parties involved. This right of access has implications for land managers and for agencies. After all, where in the hierarchy rights will this new right stand?

The Scottish Landowners' Federation (SLF) believes that Land managers need to have the right to manage land, using management objectives, which are integrated, and include sustainability, stewardship, bio-diversity, commitment and continuity. Indeed the Access Forum's advice states that land managers 'will still be free to manage land in accordance with good management principles'.

So the right of access will be just one of many rights enjoyed by people in Scotland, and the crux of the issue is the exercising of that right responsibly. For, if through exercising the right of access, disturbance was caused to ground-nesting birds or crops were damaged, that would not be responsible access and the reasonable person would take their access elsewhere.

RESPONSIBILITIES. So this brings us on to what exactly is responsible access?

Now I'm sure that we all like to think of ourselves as reasonable people, who are mindful of our responsibilities and of others rights and that we treat other people with respect as well as expecting others to treat us likewise. But are we all as reasonable and responsible as we like to think?

Access to the countryside has excited people for a very long time. Indeed the perceived wrong doings of others have often been used as an excuse for ourselves to behave in a less than responsible and respectful way. For example, signs in the countryside infuriated Jerome K Jerome - be they the excessive numbers he found in Germany's Black Forest at the end of the 19th century, or those dotted along the River Thames. His response is one which some of you may sympathise with:

"The sight of those notice-boards rouses every evil instinct in my nature. I feel I want to tear each one down, and hammer it over the head of the man who

put it up, until I have killed him, and then I would bury him, and put the board up over the grave as a tombstone”.

His companion Harris would go even further:

“He said he not only felt he wanted to kill the man but that he should like to slaughter the whole of his family and all his friends and relations, and then burn down his house, and sing comic songs on the ruins”.

While people do not, as far as I know, generally go this far, there are those who do not think twice about tearing signs down, simply because they disagree with what the sign says. Such behaviour is neither responsible nor respectful, and is less about asserting a right than it is to do with infringing on the rights of others.

For users, the proposals talk of a right of access exercised responsibly. This means people being accountable for their actions - and the dictionary even links this with rational behaviour! The key point is, that what is reasonable to one person may not be reasonable to another, but we'll let the Access Forum sort that one out.

However, I would like to use this opportunity to suggest a few examples of responsible behaviour, which are not, I hope, too contentious.

For users these could include:

- Wear appropriate clothing and carry necessary equipment
- Park safely/ in designated parking areas
- Take all litter away
- Cause no damage
- As a horse rider - give way to walkers
- As a cyclist - give way to walkers and horses
- Assisting with practical access projects - Getting your hands dirty!

For land managers there are obligations to facilitate and welcome access. This could include:

- Looking for opportunities to integrate access within land management
- Not posting misleading notices or signs
- Working with local agencies and local communities on access projects
- Not leaving farm/ forestry litter lying around
- Being aware of where and what access is currently taking place.

For agencies that have a role to play in facilitating access, there could be guidelines developed on procedures and protocol. These could include:

- Treat all parties with respect
- Remain impartial
- Have clear and open procedures
- Insist that all relevant parties are consulted at the earliest opportunity
- To be mindful that access projects and negotiation can be both time-consuming and costly for land managers.

Most of what I have just outlined is really common sense, and describes the way that most people behave most of the time. But we all have a responsibility to encourage our colleagues, peers and others to be committed to the three R's of rights, responsibilities and respect.

One of the ways this is done is through the development of codes and guidelines, such as the country code. The SLF - THIS IS A COMMERCIAL BREAK - has produced a Draft Code of Practice for Responsible Land Management, which covers a number of aspects of land use; the statement for access is as follows:

Public access exercised with responsibility and with consideration for land management and nature conservation, should be welcomed. Well planned and organised access facilities should be integrated with farm and estate activities.

Copies of the draft code are available for information.

The SLF has also employed me as a full-time Access Officer and part of my job is to help our members appraise access opportunities and better integrate access with existing activities. END OF COMMERCIAL BREAK.

REALISM. The representative bodies and organisations take their responsibilities seriously, and the codes that have been produced, such as those for wild camping, and off-road cycling are very good. But how do these operate in the real world - what are people's expectations?

Walkers, cyclists and horse riders expect to be able to enjoy the countryside. Foresters, farmers and other land managers expect to be able to manage the land. Local authorities, enterprise companies and other agencies expect to be able to meet their objectives. We are all expecting to be able to do this in the countryside - the hills, the coast, woodlands and forests, farmland and riverside of Scotland.

Are we expecting too much of the countryside? Are we asking it to be all things to all people? Have we set ourselves an impossible task?

Well, we won't know for a few years whether or not the Access Forum's proposals will work. But we need to be committed to the work and the spirit of the proposals and we need to be realistic - with a pinch of optimism - and understand the changes in attitude that are required to make the proposals work.

As a society it could be said that although we are more aware of our rights than ever before, we are not so hot on our responsibilities to others, and many will agree that a mutual respect for one another has long since disappeared. In the real world then, we are faced with a society which is highly individualistic, people with a 'me first' attitude, increasing levels of violence against individuals, a lack of respect for our environment shown by the ever increasing piles of litter - which would surely bury the streets of our town and cities if street cleaners were to disappear for a few weeks.

So what has all this to do with access to the countryside?

Well, simply that this is the context in which access to the countryside takes place. People, who litter the streets of Perth, will carelessly drop their litter when visiting an estate, a country park, or following a riverside walk. People who believe not only in their rights, but that they are always right, will not take kindly to guidance and suggestions, to requests for dogs to be put on a lead, or for alternative paths to be walked. Although these people are the minority - and

everyone agrees with that, it is a minority which is growing - not decreasing. Just have a look at the litter alongside the roadsides as you get onto the A9 after the conference.

When talking about Rights and Responsibilities and Respect we have to be clear and honest about the society we now live in, and to be clear about what we can realistically expect to achieve. We can all dream about ideal worlds, and there are probably as many ideal worlds as there are people in this room, but it will not get us much further forward.

Our rights and responsibilities need to be balanced and we need to respect others and try to understand, though not necessarily agree with, their different points of view.

After all, we are talking about human beings, with human desires, human failings and human strengths. We are talking about increasing the level of individual responsibility we are expecting of people. We are saying that we expect users to enjoy the countryside at their own risk - in a world where there are warning signs on how to open lemonade bottles!

We are expecting land managers to facilitate and welcome public access - yet, in some cases, the incentives to do so take the form of increased litter, disturbance and vandalism. We are asking local authorities to provide practical help and assistance to users and land managers, against a backdrop of ever decreasing resources in local government.

WHERE NEXT. So where do we go from here?

In some ways, I feel that our highest expectations will lie with the professionals to provide the support and assistance to users and land managers to improve the experience of access. In most circumstances, professionals will not have that direct personal involvement which can cause emotions to take over and common-sense to take a holiday. Which sometimes happens when there is disagreement about access.

Access Officers with local authorities and other agencies, and staff within SNH and other relevant organisations have a vital role to play.

Why are they so important? Firstly, because they are paid to do a job, and therefore should behave in a professional and impartial way which shows respect to all parties involved. And secondly, as professionals they will have a greater understanding of the wider issues and the benefit of training opportunities and of sharing experiences with their peers.

Landowners and managers have, in general, a positive attitude towards access and this is reflected in the high level of access to the countryside currently enjoyed by the people of Scotland. Many estates have invested money, staff and a lot of time into developing and improving access.

However, the Access Forum's proposals will mean there will be greater expectations on all landowners and managers to facilitate and welcome access. For some this will be a new approach, a new experience. And as with all things new, assistance and safeguards will need to be in place to help landowners and managers with this process. Again we look to the agencies.

Most **users** behave in a responsible way; they seek to enjoy the countryside in a positive and peaceful way. But it is important to realise that for some people the countryside is just an incidental backdrop to the activity. Some mountain biking magazines, for example, promote an aggressive approach towards cycling in the countryside which is more to do with pure self-

gratification and getting the biggest thrill, than with behaving responsibly with respect to land management and other users. Damage to the environment or the infringement of others enjoyment is just an incidental by-product.

The **representative bodies** for these activities need to take up a more pro-active approach to begin to tackle some of these issues. Much of the information produced by these organisations is excellent - we just need to find ways of getting it to the right people.

EDUCATION. Getting the right information to the right people in the right way is important.

The Access Forum recognised the need for a major education programme, not just for the thrill seekers - who realistically we may never be able to influence - but for all people involved with access. And I am very much looking forward to hearing about Influencing Recreational Behaviour, and Effective Countryside Education, later on this afternoon.

We cannot afford to ignore the ever-widening gap between the countryside and the town and we have to acknowledge that many people who want to enjoy the countryside have little understanding or experience of the natural environment. Added to this, I feel that many children in rural areas spend so much time in front of the TV or computer that their experience and understanding of the countryside is just as poor as that of some city children. So we need a major education programme to influence people of all ages and backgrounds, who seek to enjoy the countryside, on what it is to behave responsibly. In a way we have to encourage people to want to learn about the countryside and to consider the implications of their actions when enjoying the outdoors.

RESOURCES. Such an education programme, along with the promotion of the new Scottish Countryside Access Code requires adequate funding.

We need to be aware of the real costs of implementing the Access Forum's proposals because if we don't we will under-resource it. The key resources that we need to look at when taking forward access are:

- Money - adequate and appropriate funding
- People - employment and training
- Time - awareness that everything takes longer than you think - realistic expectations.

I think most people will agree that countryside access has historically been under-resourced and that we need to provide strong and credible arguments for an injection of significant funding over a ten year period (and beyond) to ensure that the proposals do not fall flat on their faces.

It is the responsibility of all of us to secure resources for access in Scotland - to provide information, education and facilities for users, and guidance and assistance for landowners and managers - who in many cases are the access providers.

If resources are not secured for improving access to land and water in Scotland, then many people will be disappointed, and the potential for conflict and problems will be increased. After all, if people are led to believe that there will be improved access, and this doesn't happen due to lack of investment they will look around for someone to blame. I suspect that the easiest people to blame will be the landowners, as it is the land which will need stiles and kissing gates and waymarks - and if these are not in place whose fault is it?

At the present time it is not easy to find out who is responsible for the provision and maintenance of countryside access in Scotland, although there are many people with a finger in the pie. The Scottish Rights of Way Society, for example, sometimes put up signs along paths that are un-walkable and unmanaged. Local tourist boards sometimes distribute leaflets that promote walks which are out of date or un-passable. And some writers of walking guides produce books without consultation - or indeed in some cases without even walking the route. All in all this provides a bad service for users and land managers alike.

The different organisations involved with countryside access have to work together to be effective and to improve the current situation. This doesn't just mean the usual suspects of the Local Authority and Scottish Natural Heritage, but includes Local Enterprise Companies, the local Tourist Boards, along with representative bodies such as the Scottish Rights of Way Society, the Ramblers Association, Scottish Landowners' Federation and the National Farmers' Union - this is beginning to sound like the ingredients for a Local Access Forum! But that's another presentation!

CONCLUSION. The tea break beckons - we have to share responsibility and take our responsibilities seriously. All of us, land managers, users and agencies have to work together to secure adequate and targeted resources to improve the experience of the provision and enjoyment of access to the countryside. While being aware of our rights we have to behave in a responsible way that shows respect to others. We have to try to understand other people's points of view, and stop thinking about different 'sides' in the access debate.

We are all in this together, just like three men in a boat, and I believe the Access Forum's proposals provide a workable framework for improving access to land and water for users, while safeguarding the rights of land managers to manage land. To ensure this happens we all have to be committed to the three R's of Rights, Responsibilities and Respect.

Thank you.

Livestock: Facts and Fiction, Louise Roger

The most recent set of figures from the HSE show an annual death toll of 42 on British farms, of which 13% were animal related. Over the last 10 years, around 5% of all deaths on farms have resulted from fatal injuries inflicted by animals, including 21 people killed by bulls. In addition there are around 180 non fatal accidents involving farm animals each year. A high proportion of these statistics will involve farmers and their staff, rather than members of the public who happen to be walking through the farm, but clearly there are many occasions when we might encounter livestock on farms in a wide range of circumstances.

Scottish livestock population

200,000 Dairy cows

550,000 Suckler cows which are bred for beef production

20,000 Bulls for service

1.2m Fattening cattle and replacement females

Most of the male fattening cattle will have been castrated i.e. bullocks. There is an upward trend in bull beef production, slowed when we lost our export markets because of BSE but the vast majority of these will never be grazed and out of doors.

Total breeding sheep flock is around 4.7m, producing around 4.6m lambs each year.

SHEEP

Archaeological evidence shows that sheep were one of the first animal species domesticated by man, 11,000-12,000 years ago. Since that time man has selected sheep for a wide variety of anatomical and production characteristics.

On average sheep graze for about 8-9 hours per day, and eat in feeding bouts which last from 20 minutes to 1.5 hours followed by a rest or ruminating period when they lie down for 45-90 minutes. They tend to rest throughout the hours of darkness.

Many breeds of sheep living in undulating countryside establish a daily pattern of movement over their home range. They rest overnight in the higher areas then move down the hill in the morning, and back up the hill to their resting place before night fall. This sort of behaviour is typical of hill breeds such as the Scottish Blackface (SBF), or Cheviot.

Sheep are predominantly visual animals, and will show signs of disturbance as a flock when individual animals see a potential predator. They have a wide visual field with a blind area of only 90 degrees immediately behind them.

During late pregnancy, when ewes are heavily in lamb, particularly if they are expecting twins, they will usually be given supplementary feed. Remember most ewes are pregnancy scanned nowadays so the shepherd knows in advance if she will have a single or twin lambs, so he can manage her accordingly. This may well be out of a plastic or paper sack. So if you are walking across a field around lambing time with your worldly goods in a Tesco carrier bag rather than the regulation rucksack, try not to rustle it or you may well find you are being followed by a growing mob of hungry sheep!

Many farmers bring their lambing ewes into lambing fields which may be close to buildings to lamb, if they are not lambed inside and then turned out shortly after.

At lambing, ewes tend to pick elevated areas for giving birth. In hilly country along the ridges of the hills. When they come to lamb, ewes will seek shelter depending on wind speed, rainfall and their body condition. This is important for the survival of the lamb, as it is very vulnerable to hypothermia especially during a typical Scottish spring. Most lamb deaths occur within the first three days of life.

The first four hours after birth are critical in establishing the ewe/lamb bond. Lambs have usually managed to suckle their mothers within one hour of birth. Any human interference at this time can result in the ewe temporarily abandoning her lamb, and the lamb is unable to re-find its mother on its own at this very early stage. Obviously this separation is more life threatening in bad weather, or if there are predators or other dangers about, such as deep burns which the lamb might fall into as it wanders about trying to find its mother again. Ewes are more likely to abandon their lamb after being disturbed if they are lambing for the first time, if they have had a difficult birth or if the ewe is in poor condition.

The simple conclusion to this is, if at all possible, keep out of lambing fields in the spring, but if you do have to go into them, avoid the higher ground which is very likely to be the maternity ward.

Effect of disturbance by man

Shepherding has been practised since the beginning of recorded history. In many other countries sheep may be trained to follow a person but in the UK of course we use dogs to force sheep to congregate together and to move them. Using dogs is certainly easier with large groups of sheep. Sheep will tend to keep a dog or man in sight unless they turn to flee. Obviously the presence of walkers with or without dogs when sheep are being herded can be a distraction to the movement of the flock, and if you can avoid coming close to these situations so much the better. Remember that hill gathers on some large units can take three or four shepherds and up to 12 dogs the best part of 7-8 hours to bring all the sheep together, and disturbance towards the end of the gather can be frustrating for the shepherds to say the least.

Individual animals tend to panic when they cannot see other sheep. Studies suggest that a minimum of four sheep are necessary before you get predictable behavioural responses. So if you are moving through a flock of sheep, do not cut through the flock so that you leave one or two isolated from her mates. How close can you go to the sheep before you disturb them? The flight distance varies from breed to breed, with a minimum of 5 m to over 1 km in wild populations. The greater the proportion of the flock you see facing away from you, the closer they are to running away.

Sheep breed differences

There are now over 2000 breeds in the world.

There are breed differences in gregariousness, flocking responses and to a lesser degree in maternal and agonistic behaviour. Merinos are highly gregarious, and at the other end of the spectrum are SBF which are quite individualistic.

Hill breeds tend to be uniformly dispersed across their grazing area, compared to low ground breeds which tend to stay more in a flock. So the distance between nearest neighbours in a SBF group has been measured at 7.5 m, while that of Suffolk is less than half of that at 3.4 m. SBF show a strong adherence to a particular area of the farm, and if they can will tend to stay in family groups with two or three generations staying together in this area. This behaviour is called hefting.

Ewes vary in their response to disturbance by man around lambing. Some breeds will continue to be very attentive mothers e.g. mules, while others such as the hill breeds may desert their lamb on disturbance but return later. The frequency with which sheep are handled by man also has an effect on whether they desert their lamb, with those handled more frequently being more likely to stay with their lamb if disturbed.

CATTLE

Behaviour

Their field of vision is almost 360 degrees, they can see colours and their sight is particularly effective in poor light. Their hearing is acute.

Cows divide their time almost equally between standing, lying and grazing. Calves spend more than half of their time lying down, and will seek out sheltered spots, such as behind hedges, dykes and dips in the ground. If you see a group of calves sheltering in this way, the common-sense thing to do is to avoid going near them to minimise the disturbance.

The calf will take up to a day to learn to recognise its mother, and during this time the cow will tend to drive away all other animals and humans from the calf if she is disturbed. There are more people, particularly stockmen of course, injured by cows around calving time than are ever injured by bulls.

Effect of disturbance

Cattle can be particularly curious. I'm sure we have all been in the situation when we have entered a field and the herd has raced up to have a look, ears pointing forwards, noses down, tails up and perhaps a bit of snorting as well. They might toss their heads too, all signs of curiosity rather than aggression, before racing off around the field. This type of activity is particularly common at this time of year when they have only just been turned out and there is a bit of spring fever in the air. In these sorts of situations, this chap off the lead can cause quite a lot of commotion. He is interested in them, wants to play, and they are curious too. They approach each other, there is some tentative sniffing, he loses the place and barks, and before you know it, they are stampeding and he is running round behind you for protection. Having him on a lead in the first place will mean that this tricky situation is far less likely to occur. However, if the cattle are showing aggression towards the dog still attached to the lead, and therefore endangering you, you are better letting go of the lead and letting the dog fend for itself, which in most cases it will be well capable of doing. HSE report a number of incidents when people have been injured by cattle while trying to protect their dog on a lead.

Aggressive behaviour may start with a bit of posturing, with the animal lowering his head, pulling in his chin, so that if he has horns, these are pointed forwards, with ears at right angles to the head. He might do this directly facing the perceived threat, or broadside on. He then starts to paw, exposing an area of mud or dust, in which he will rub his forehead or horns, before attacking.

Bulls are more likely to be aggressive if they are on their own than if they are in a herd of cows. They tend to be more aggressive because they are kept on their own for much of the year and also they can probably sense that people are afraid of them. Unfortunately over the years, bulls have not necessarily been selected for good temperament.

Breed differences

There are breed differences in aggressiveness but it is potentially dangerous to draw any hard and fast rules about which breeds are safe. So many people have been killed by bulls that were reputed to be quiet, and the variation within breed, from one individual to another is probably far greater than the variation between breeds. This can be a result of how the animal has been handled through its life, or the set of circumstances in which it finds itself.

For example, the Saler breed which originated in France as a dual purpose animal, i.e. it is kept for milk and beef. In France it is known for its ease of handling. However, in the relatively short time it has been in Scotland where it is used as a suckler cow, it has acquired the reputation of wildness. This may be because we keep our cattle more extensively, or maybe the French just sold us their wild ones!

You are not likely to see bison, but they are probably at the aggressive end of the spectrum when considering behaviour. Dairy bulls i.e. Holsteins, Friesians and Ayrshires have the reputation for being more aggressive than the beef breeds, and native breeds such as Highland, Angus and Hereford less aggressive than Continental breeds e.g. Limousin.

Try to avoid entering fields with bulls in the first place, particularly if he seems to be on his own. If you do go in try to keep him in sight as you pass through.

If he does start moving towards you, do not run but continue to walk briskly to the nearest point of exit. You will not outrun a bull. An electric fence or plain wire fence will not deter a bull which is intent on attacking you, he will weigh at least one tonne.

Most animals will tend to be less disturbed by people on horseback than they will by people on foot, presumably because they are perceived as less of a threat. The exception to this of course would be if you happen to be on horseback passing a field of horses. Horses are curious animals and may well approach a walker. They may nip if looking for titbits, but in most circumstances will not be openly aggressive.

It is important to realise that there are a few diseases present in farm animals which can affect humans. In normal circumstances the chances are remote that any walkers would be at risk from catching these, unless they handle the livestock. E coli, Salmonella, orf, enzootic abortion and toxoplasma could all be acquired from sheep, for example, but the risk is greatly reduced by not handling any animals and observing basic hygiene precautions. If you do see a sick animal, go and tell the farmer rather than rushing to its aid yourself, unless it is an obvious emergency. Possibly more at risk is the family dog, particularly if it ingests diseased afterbirth or carcass. It could then pose a health hazard for some weeks to come to all with whom it comes in contact. Again, keeping the dog on a lead if there is any risk of it encountering infective material is the obvious solution to minimising the risk of infection.

What about other farm animals that you might encounter?

More sows are being kept outside nowadays, but I would not recommend that you try to walk across their fields. They are often quite churned up by the pigs digging, are surrounded by electric fencing and sows in particular can be quite aggressive if you were to get too near their arks with young piglets inside.

Goats are also a rare site, are unlikely to be aggressive, but can be very curious.

Finally a knowledge and understanding of farm animal behaviour and how livestock are managed on farms can only strengthen your appreciation and enjoyment of the Scottish Countryside as you walk through it, as well as to safeguard the relationship between the farmer, who must make his living there, and the public as we pass through.

Dogs: Fact and Fiction, Pat McCulloch

Canine Concern Scotland Trust is a charity set up 10 years ago with the stated aims:

To provide an educational service to promote responsible dog ownership in Scotland by visiting schools to reach dog owners of the future, showing their video *Children and Dogs*, giving talks, and by the publication of educational posters and leaflets which are freely available.

To promote research into the therapeutic value of dogs to patients and others isolated from normal association with pets.

To establish and manage a service to be known as THERAPET which allows those separated from pets through illness or disability to have access to the companionship most of us take for granted.

To further the role and care of dogs in Scotland either directly or in co-operation with Government, Local Authorities and other organisations in Scotland, whether charitable or not.

BENEFITS OF DOG OWNERSHIP

Increases activity - benefits circulation and a healthy heart

Stroking animals lowers blood pressure and slows the heart rate

Facilitates social interaction and shared commonality with other pet owners

Decreases loneliness and depression by providing companionship

Satisfies our basic need to touch and care for other living beings

Teaches us to live for the moment

Provides constancy, promotes feelings of safety and are always welcoming.

RESPONSIBILITIES OF PET OWNERSHIP

I Expect:

companionship
love
loyalty
obedience and good behaviour

My Dog Expects:

companionship, love,
protection, veterinary care,
training and control, exercise,
food and water, grooming

SOCIETY EXPECTS

Us to be Responsible and aware of the laws relating to Animals

DO's and DON'Ts

DO's

Training
Exercise
Diet
Veterinary care
Grooming
Holidays

DON'Ts

Leave pet alone
Allow dog to bark
Allow dog to roam in town or country
Allow dog to foul on pavements or play areas
Spoil your dog

ONLY 25% of the population own a dog

DOGS IN TOWNS

- Keep dog under control at all times
- Always have dog under supervision
- Never allow dog to foul footpaths, park or public places
- Clean up after your dog
- Keep dog close to you when on lead
- Do not allow dog to interfere with passers-by in the street
- Do not take dog into food shops or places where not allowed
- Stop dog making unnecessary noise
- Be aware of Local Authority Regulations

DOGS UNDER CONTROL

The only safe way to control your dog is to have it on a lead you are holding!

Dogs in a new or strange environment can behave in an erratic manner (even if well-trained before)

Try to understand how a dog sees things - some instincts are deeply inbred and difficult to eradicate e.g. chasing after prey is not a heinous crime to a dog. It is a normal part of pack activity.

POSSIBLE SOLUTIONS

EDUCATION!

EDUCATION!!

EDUCATION!!!

Provision in school from primary 3 onwards

More publicity on availability of dog training classes

Greater co-operation between parties with opposing views to achieve harmonious resolution in allowing access to our countryside in an agreed manner.

Plenary 1	<i>questions / answers</i>
<i>Brenda Clough</i>	<i>Bulls - people don't take notice of signs! So how effective is this method?</i>
Janet Law	Landowner has "duty of care" and must take all reasonable precautions to prevent incidents i.e. having a notice may be sufficient (it is not landowner's responsibility if user does not heed notice).
<i>Alison Irvine</i>	<i>Everyone knows to beware of bulls but which cows should be avoided. Farmer alleges that cow number 232 is a bit of a wild one and he is still grazing it where there is public access. Is Council liable because they have been told and have done nothing?</i>
Janet Hood	They may be but the farmer will be more so because he is obviously aware of the problem.
Louise Roger	Cows are not just "Sylvester Stalone" types. They need to be provoked by something, but a visitor will not know what!
<i>Jim Strachan</i>	<i>There is no such thing as a 'safe bovine' - recommend fencing off and recommend pressure to re-align legislation to include beef breeds as well as dairy beasts especially as beef breeds have less contact with people. SCAN could apply pressure to SNH/SO SOAEFD to review Agricultural/ Bovine legislation</i>
Louise Roger	Yes, all cows are individuals and are unpredictable
<i>Alex Sutherland</i>	<i>Present law unworkable - looking forward to new Country Code. What about Exotics: geese, alpaca, deer, boars and ostrich, etc (alpaca are trained to kill wolves in S America)?</i>
<i>Alistair Lawson</i>	<i>Warning notices are not enough - people need better guidance and some people are just out to be troublesome. Lots of negative signage around. We need to remove uncertainty of ill-formed decision</i>
<i>Tim Dixon</i>	<i>LA view - Agreement (and dilemma) of shared liability: LA, user, land manager, so there is a need for communication between the three 'parties'. How does panel think this could be brought about?</i>
Marian Silvester	1) People take access at own risk 2) Access Code: provide advice and information 3) Education programme - awareness of actions. The Access Forum proposes to reduce liability for landowners in respect of liability. This will be supported by advice and guidance in the new Access Code and other educational work. LA staff have greatest burden to filter information through to all people
Pat McCulloch	Focus education on children, the long term view. Users need to recognise their responsibilities. A problem is the range of individual views on dog management. I do not agree with liberal dog-keeping: dogs should not be taken into livestock fields.
Janet Hood	Need positive signage.
<i>Ian McCall</i>	<i>Should dogs be kept under control by clear legislation?</i>
Marian Silvester	Need to be realistic about ownership expectations
Pat McCulloch	Interpretation of 'under supervision' and 'under control', what do we mean - needs to be more clearly defined.
Louise Roger	Can't expect legislation to cover everything e.g. a well behaved dog on a lead can still cause damage in a lambing field therefore more understanding is needed that at some times there must be 'no go' areas.

Janet Hood	Yes, there is more scope within legislation for improvements. Legislate and forbid dogs in certain situations.
<i>Janet Hood</i>	<i>Q to floor: What if: we have a created path for a period of 10 years. After 20 years, public are still using this path - does it become a matter of right i.e. a Right of Way?</i>
Alex Sutherland	Has PPCO suspended prescription? Need good evidence to be sure.
Tony Dyer	Yes it would become a right of way if nothing done to prevent prescription by landowner. (GENERAL AGREEMENT FROM FLOOR)
John Grant	Yes, agree it would be right of way
Dick Taylor	A test for ROW but Yes it would be so considered
<i>Ron McCram</i>	<i>What impact will Human Rights Act 1998 have on the new proposed legislation?</i>
Janet Hood	Article 1 says there should be balance between public good and property owner. The Scottish Parliament will be required to consider all new legislation with regards to this Act.
<i>Dave Morris</i>	<i>Human Rights Act 1998, raises questions of freedom of movement and compensation: there appears to be no automatic compensation requirement.</i>
Janet Hood	This is not necessarily the case. Individual cases need to be assessed on their own merits but compensation situations will be feasible e.g. requirements to stop grazing fierce animals.
<i>Dave Morris</i>	<i>This is right if damage occurs, but the Right of Access alone does not make compensation compulsory.</i>
<i>Jonathan Burrows</i>	<i>What cheap sanctions do you feel would be effective?</i>
Janet Hood	Can ask people to leave if they are seen causing damage/ harm. Can get an interdict but at the end of the day, education is best method.
Alistair Lawson	Education is always an uphill effort in the management of people but there are good precedents e.g. National Trust & Rothiemurchus - both with high levels of right of access. These should be used more as guidance systems/ models - copy them more widely.
Marian Silvester	Even with effective guidance in place, some people will still choose to ignore it. Warning signs in dangerous woods after bad storms were ignored.
<i>Ali Hibbert</i>	<i>Are Local Authorities responsible in promoting access along a path covered by a Public Path Creation Agreement (PPCA) which may, occasionally be used for pasturing a bull? For example: a new path through farmer's field of mixed stock. Farmer happy to agree to not keeping dangerous animal in field, but does keep a bull in it. Would PKC be okay to provide access through?</i>
Janet Hood	This should be controlled by PPCA. If you know then agree suitable diversion with farmer for when bull is being grazed.
<i>Ian Whitehead</i>	<i>Liability, who is liable for work being done by third party on land under management of LA?</i>
Janet Hood	Contractors/sub contractors should work to accepted standards of safety. The LA should ensure 'cowboys' are not used. But public still may not make correct usage of the access.
<i>Ian Whitehead</i>	<i>How long does liability last?</i>
A Janet Hood	Must keep an eye on the structures for ever if part of an agreement.

- Tony Philpin Fences at cliff edges cause great problems: do you put them up to prevent people falling off? They then swing over them, trip over them - who's responsible? There is a lack of signage and an abuse of signage. It is impossible to meter everything.
- Ian McCall People should be able to make reasoned decisions and this comes back to education.
- Hugh Muschamp There are three types of people: will do what you want; may do what you want; and ones who will never do what you want. Need to target the may's! Signage people are often in two camps: pictorial or text based. Both text and pictures are needed!
- Alex Sutherland Humour on signs is good - lasts longer.
- Alison Irvine* *How much exercise does a dog need? Some people claim a dog on a lead doesn't get enough exercise?*
- Pat McCulloch It depends upon the breed; a dog will take as much exercise as it gets - people's views on exercise vary a great deal.
- John Grant Leaflet from Canine Scotland states that you take the dog for exercise to exercise yourself!
- Pat McCulloch We are a disposable society today - Dogs are no longer for life, if they don't fit in they go back to the shop.
- Marian Silvester Perceptions of what dogs need change all the time. Depends also on where you walk with dogs-off-lead: FE roads, farmland.
- Jonathan Burrows* *Don't forget wildlife in the woods!*
- Pat McCulloch You never know what is around the corner therefore you always need to keep your dog closely supervised.
- Kenny Steele* *Education is very important. As is community involvement. If you make bad things socially unacceptable, they then become self policing?*
- Dave Morris* *New Access Legislation may overall increase the number of people going to the countryside. How can we make people more responsible to please farmers?*
- Janet Hood Maybe even well-behaved dogs that are good off the lead should be kept on a lead to show good example.
- Louise Roger People abandon cars rather than park them sensibly which can cause problems. A bit more thought in how you get to the countryside.
- Marian Silvester Peer pressure is important. More consideration between user groups. This should be lead by some community person - no specific person. If it is a good idea it should be taken forward.

Access Forum Update, Richard Davison

Advice to Government (November 1998)

Announcement by Government (February 1999)

- Advice accepted as starting point for legislation
- SNH asked to draft a Scottish Countryside Access Code by autumn
- Additional funds of £1.25 million to SNH to help lay foundations for action

Forum Sub-Group - Code

- Produce a draft Scottish Countryside Access Code
- 12 members from both fora will meet 4 times by July
- External workshop on 28 June
- Draft Code to Access Forum in July
- Draft Code to SNH in August
- Draft Code from SNH to Government in September

Forum Sub-Group - Paths and Tracks

- Develop detailed proposals for Forum to consider
- Advice will then be sent to SNH and the Government
- 6 members and 4 observers; 4 meetings by July

Additional funds

- Bulk of funds for 1999/2000 with strong steer from The Scottish Office
- Assist Paths for All and the development of networks
- Prepare an inventory of existing routes and facilities
- Work with local authorities on 'required path network'
- Develop best ways of encouraging responsible behaviour

Responsibilities - Users' Perspective, Nick Kempe

I am delighted to have been invited to speak to you and, knowing that some of you have heard me speak before, will **consciously try** to cover new ground. This is perhaps not as difficult as the debate about access has developed a long way in Scotland in the last year. A year ago there were not many people arguing that freedom of access should cover water as well as land or horses and bikes as well as walkers, although all these points have now been accepted by the Access Forum, SNH and the Government.

At the risk of appearing ungrateful I wish to start by offering a friendly critical analysis of the whole concept of this conference as embodied by the title "Countryside Access: Behaviour, Responsibilities and Thorny Issues". I believe this illustrates confused thinking which has to be addressed if you, as practitioners and opinion formers, are to play a positive role in the access debate. The title implies a distinction between "countryside access" and.... and what? Town access, urban access? The Access Forum's proposals do not make such a distinction - the proposed legislation is for access to land and water - and the Government states it is committed to getting a lot more people to use alternatives to cars. The danger of the term "countryside access" is that it implicitly accepts there is a distinction between town and country access, however, if you think about a canoeist going down a river like the Clyde, does their need for access change when they move from country to town?

A dichotomy between town and country is of course used by some people, particularly in the Countryside Movement south of the Border, to portray people living in towns as knowing nothing about the countryside and as being a threat. It is a short step then to make access appear a threat and it is easy to understand how the Countryside Ranger in some popular honey pot, who has spent another half-day picking up litter, could start to see access, rather than behaviour, as THE problem.

I believe the dichotomy between town and country is greatly overplayed. People are brought up in country and move to the city, people move to the country to retire and some people have homes in both. A large proportion of the population in the Strathclyde conurbation, the most urban area of Scotland, are from Ireland and rural traditions live on - in the part of Glasgow where I live an Irish friend is seen as an outsider at the allotments because he is from Dublin whereas everyone else is from Donegal. Gaelic is seen as the language of the North West, and what could be less urban than that? - except that there are apparently more Gaelic speakers in Glasgow than in Lewis. This inter-relationship between people in town and country offers both hope and opportunity for education and increased understanding.

Conversely the need for access by people in rural areas is just as great as in the towns. If terms like access to the countryside imply that all that is being discussed is people from towns gaining access to the countryside then we have problems.

Following on from this I dislike the term "user". While there might be talk of users of the countryside when does anyone ever talk about users of towns? While I admit the term can be neutral as in "roaduser" I always think it suggests someone who "uses up" the countryside and a "them and us" situation. Our world is not like that. Does the person who owns land immediately changes from "land-manager" to "user" the moment they step off the piece of land they are managing?

I think that in discussing access it would be better to move to a Citizenship perspective and to consider access from the point of view of the citizen (who incidentally is likely themselves to be a landowner given that the majority of people now own their own homes).

Thirdly, the title confuses outdoor recreation with access. Outdoor recreation is a particular use of land, access is a right. In the town when an incident of bad behaviour such as a crime takes place, no-

one ever says "stop public access". Occasionally the Courts may respond to the individual criminal by restricting their access rights (by imposing bail conditions or curfews) but attempts to impose wider curfews are generally seen as an infringement of civil liberties - except in the case of teenagers who have little power in our society. We need to get away from the way of thinking, that when there is a problem in the countryside the way to deal with it is to stop access for all - this way of thinking incidentally is incomprehensible to people in the Scandinavian countries.

If this hasn't persuaded you, perhaps I can make the point in a rather more practical way by giving you a short list of problems I have experienced in my street: litter (lots of it and it blows/gets dropped on my property), poor parking (so I cannot get near my house), noise, destruction of wildlife (cats), dog shit especially out the back (this makes it impossible for children to play in the back lane which would be safe from cars) and children breaking down fences and trampling my trees (I am working on a small native wood developed from natural regeneration). People in towns and cities experience problems arising from people taking access to their property as much as in the country and ones privacy is more likely to be affected in towns than the countryside.

What can we conclude from this? I believe that common problems between town and country need to be addressed by common solutions and techniques for addressing problems in towns may be no different to countryside. Unfortunately our society does very little about this at present. We have an opportunity with the Scottish Parliament to develop popular ideas of citizenship and address this situation.

RESPONSIBILITIES OF CITIZENS

One way of looking at the issue of the responsibilities of citizens when exercising their right of access is to look at problems. People have been talking about problems in the countryside for a long time now and there a lot of sources for this. What is interesting is that people were talking about the same problems in the thirties as they are now. Any selection of sources is to a certain extent subjective and I have deliberately included NFU Mutual as a source in order to provoke thought. Having said that I believe it is reasonable to take the research commissioned by SNH for the Access Forum as a reasonably authoritative statement of the main problems at present.

INDICATORS OF THE MAIN PROBLEMS REGARDING BEHAVIOUR IN THE COUNTRYSIDE

- 1) 1938 Appeal to Wayfarers from National Farmers Union and Chamber of Agriculture for Scotland (Scotsman 1/7/38):
This cited the following problems as resulting from visitors to the countryside: *"failing to close gates, lighting fires, disturbing stock, and leaving bottles and litter in fields and on the roadside"*.
It concluded *"townspeople in general required education on such points"*.
- 2) Tom Johnstone, the Secretary of State for Scotland, in a letter to Ernest Bevin dated 4/7/42:
"In Scotland the law is abundantly simple. There is no such offence as "trespass" which is a term borrowed from English jurisprudence. Any member of the public is accordingly at liberty to walk over any land in Scotland provided he does so without damage to crops or fences and does not commit a breach of the various poaching acts. This applies to the whole country with the exception of private gardens or grounds which form the Cartilage of a dwelling house or other private residence."
The Secretary of State subsequently put out an appeal to landowners and holiday makers titled HOLIDAYS AT HOME which gives a slightly different list:
"Any member of the public may walk over moorlands in Scotland unless access has been banned by official action taken under the Defence Regulations and on condition that no damage is done to crops, livestock, fences or other property and that no offence against the Poaching Acts is committed".
- 3) List of damage and disturbance by recreational users 1998:
litter, fires, gates left open, uncontrolled dogs, theft of private property, vandalism, poaching, damage to crops, disturbance to stalking, noise, verbal/physical abuse, unauthorised camping and vehicles blocking private access. It was felt that rural crime, on the whole, is on the increase. In particular thefts within car parks and on landowners private property - e.g. sheds, were cited: erosion of paths and hills, disturbance to birds/fish and other wildlife and damage to soft tracks (including horses cutting up soft ground and motorised vehicles using inappropriate paths/tracks).
Access Consultation: analysis of responses. SNH Report No 134. 1998
- 4) NFU Mutual Insurance claims:
The greatest single cause of claims in 1998 was theft of quadbikes

THE RELATIONSHIP BETWEEN COMMON PROBLEMS AND THE EXISTING LAW

It is worth noting, to put these problems in context, that almost all of the problems listed can also be caused by landowners and land managers and often on a far greater scale than recreational visitors. Thus some farmers litter the countryside by abandoning machinery; failing to remove old fencing other land managers allow muirburn to get out of control and so on.

The key point, however, is that almost all the problems cited in these lists are already covered by criminal law.

Look at the list cited in the SNH report

PROBLEM	Offence
Litter	Contrary to Litter Act 1983
Fires	Contrary to Criminal Trespass Act 1865
Gates left open	Probably only civil liability
Damage to walls, fences	Malicious mischief
Uncontrolled dogs	Contrary to Dogs (Protection of Livestock) Act 1953 etc
Theft	Theft
Vandalism	Vandalism
Poaching	Contrary to Poaching Acts
Damage to crops	Vandalism, malicious mischief etc
Disturbance to stalking	Contrary to Criminal Justice Act 1996 (if intentional)
Noise	Possibly Breach of Peace
Verbal/physical abuse	Breach of the Peace, Assault
Unauthorised camping	Contrary to Criminal Trespass Act 1865
Vehicles blocking access	Contrary to Road Traffic Acts
Disturbance wildlife	Controlled by Wildlife and Countryside Act 1981
Off-road use motors	Contrary to Road Traffic Acts (if more than 15m off-road)
Erosion of paths/hills	Not contrary to law

The law therefore already provides a basic framework for governing behaviour. Note the parallel here with the towns. Does the law not set out the minimum standard of behaviour which is expected on the streets?

The question then arises do we need any more than the existing criminal law? In the Access Forum we asked the landowning bodies to indicate any gaps in the Criminal Law to us. To date none have been raised. This does not mean to say that in future additions could be made to the Criminal Law. This happens the whole time: driving with a mobile phone is a good example. It might be necessary to extend the criminal law in future to such issues as gates of fields with livestock in them being left open.

The advantage of this approach is that it can respond to changes in behaviour/activity without affecting the legal basis of access. Someone asked this morning whether dogs should be included in access legislation. I believe one of the wisest bits of advice the Access Forum received was from a Norwegian who told us to keep the whole issue of dogs apart from access legislation on the grounds that access for people should be a fundamental right whereas one might want to alter the legislative controls over dogs over time.

It is worth pointing out that the Criminal Justice Act gave landowners legitimate management activities protection from intentional disturbance, as opposed to accidental recreational disturbance. The only part of the criminal law which the recreational organisations at present disagree with the landowners on is the criminalisation of wild camping.

LAW ENFORCEMENT OR GETTING PEOPLE TO RESPECT THE LAW

The main issue relating to access which faces us as citizens is not about how do we restrict access, which incidentally is how the whole access legislation debate in England is being framed with a few

honourable exceptions, but how do we enforce the law? Or as I would prefer to put it, how do we get people to respect what is basically a fair legal framework for controlling behaviour?

People say the law is difficult to enforce in the countryside. Let's go back to my street and consider how to deal with one of the problems I mentioned earlier.

Consider the problem of dog shit, which has now become a criminal offence. One approach would be to go out and try a citizen's arrest, although there is a fair chance that I might get hurt and could even end up with my face rubbed in the aforesaid shit. The other approach is persuasion and use of communication skills. For example, I could write an article in the local community newsletter in order to recruit a few allies locally, while reminding people of the law might make them think twice!, especially if the Council put up a sign - I saw quite a good one in Newtonmore recently. If I then saw someone still using the back lane as a dog toilet I reckon I'd try first going out and politely pointing out to the person the error of their ways. Most people find it difficult to resist such an approach and I am fairly confident it would work. If not, as a last resort, a request to the police for an occasional patrol might do the trick. This approach may take a little persistence but I hope to have the problem sorted by next year - I'll let you know the outcome if invited to speak next year!

Another way of putting this is that ITS ALL ABOUT AN EDUCATIONAL APPROACH. People who cause difficulties should not be seen as a problem but as an educational challenge. This takes time and effort. It is unfair to expect those who have to earn their living in the countryside to take on this work without some support either in the form of Countryside Rangers or a public subsidy.

AN EXAMPLE OF A POTENTIALLY THORNY COUNTRYSIDE PROBLEM

In case I am accused of avoiding the countryside altogether I think I should give an example of a complex situation and the potential role of countryside management.

At the end of March this year on a fantastic day I had just come down from a climb on the Fan Buttress of Ben Ime, and approaching the road saw a party of four in front. We past two of them just before an open gate and I wondered at the time if the first two had found the gate closed. I did not worry too much as the gate led through a fenced area and then to another gate, which was padlocked, before the road. As we were changing our boots a Jeep roared into the parking place and a man jumped out and started screaming at the two women who had gone through the gate last. The effect of what he was saying was that this was the second time he had had to shut the gate that day, that hill goers brought nothing but trouble and couldn't they tell it was obvious that the gate should be closed. He also berated them for using that path off the hill and pointed to a pole with a white top and a stile on the East side of the burn. We had in fact gone that way in the morning and reckoned this to have been a mistake as there was a fair amount of bog, while on the West Bank of the burn an excellent looking path beckoned.

My attempts at reasoning were not very successful. I tried to point out that the Scottish version of the Country Code says to leave gates as you find them and pointed out there was no sign on the gate to indicate otherwise. As the farmer was storming off up hill I insisted I would go up and shut the gate as I felt I needed to do something to demonstrate my good faith. He stormed off before I returned.

There is no doubt that in this case someone had behaved irresponsibly although I am not sure this was the end of the world as the gate concerned did not lead onto the road and there appeared no reason to exclude sheep from the ground between it and the road gate. While I could understand the farmer's anger, he was so angry he had become disabled and irrational, not just when we met, but in his approach to the issue. For example, I do not know how he expected a pole with the top painted white to be interpreted as an instruction to go a certain way up the hill. From a visitor's perspective going up the side of the burn by the pole was doing more damage than following the path. The farmer

could have greatly reduced the likelihood of the gate being left open by putting up a simple sign stating "Please close the gate". My climbing partner who works for SNH is trying to see if they will give the farmer such a sign to put on the gate. If they won't do it we'll go back ourselves.

Now consider if such a problem is best dealt with by the law or by good management? I think this example illustrates the need for a legal right of access so that most citizens do not suffer due to the irresponsible behaviour of one individual. It also illustrates the need for a remedy against people who let cattle out of fields onto busy roads. However, the law, while setting parameters for all parties, does not really help us come up with the type of practical solution needed in this case. So I think the answer has to be a mixture of law and good management.

The issue of repeated impacts

From the recreational perspective the thorniest issue is one key that can be greatly accelerated by repeated impact that is not covered by the criminal law - and rightly so - that of erosion. Erosion, while a natural process, is accelerated by repeated impacts. It is a very good example of how one person to a place may have no discernible effect but that if that impact is repeated over and over again it may lead to damage. Something that is not an issue if one person does it becomes an issue if lots of people go.

Examples of this include people walking the same route on the Cairngorm Plateau or cyclists and horse riders riding around a field of grass. The Access Forum's recommendations basically recognise that it would not be right to restrict cyclists and horse riders for example to tracks when it is perfectly possible to ride them off-track without any lasting damage (riding through fields under grass is part of the Allemensratten in Sweden). Citizens obviously have particular obligations in terms of repeated impacts and this, I believe, is the most challenging issue for us to address.

However, the first thing we need to do is to look at any damage caused by repeated impacts in context. When talking about walkers' impacts in the hills I always keep in mind three things:

- first, many people used to live and work in shielings and yet we do not see much sign of their paths now
- second, when the population of the hills was greater so was the biodiversity (historical records show very high populations of birds of prey etc)
- third, that sheep and deer have four feet, sleep a lot less than us and munch as they walk.

They indicate to me there should be management solutions to issues of repeated impacts. Examples of management solutions are:

- reducing sheep and deer numbers, thus promoting regeneration of vegetation and reducing impacts of feet
- investing money in paths/tracks capable to sustaining impacts of feet (and pay farmers to do this rather than keep sheep which have no value)
- encouraging guidebooks to avoid promoting routes where there may be issues of repeated impacts causing damage (this might mean guidebook writers deliberately avoid promoting off-track routes for cyclists and horse-riders)
- educating people about impacts by codes and encouraging them to take decisions that will reduce impacts - management of access points (e.g. it is frequently commented that the access point for Stac Pollaidh is directly responsible for the erosion of the steep slope on the South side of that hill)
- promoting the long-walk in

- using peer pressure to manage a potentially damaging activity (e.g. climbers have voluntarily agreed to avoid climbing in certain places to protect nesting raptors)

Management solutions need the co-operation of those who are being managed or they will tend not to work. The citizen needs to be involved in management solutions. The Access Forum has recognised that occasionally management solutions will not work without some back-up and as a result has suggested that local authorities be given powers to create management rules and extend use of by-laws.

At present we are arguing that, in order to avoid managementitis and promote a co-operative approach to problem-solving, that any such rules should require the agreement of Local Access Forums.

Responsibilities of individuals

The Access Forum's report indicated three main elements to responsible behaviour:

- a) "that everyone has a basic duty of care"
- b) "the role of existing legislation in curbing irresponsible behaviour should be emphasised"
- c) "the range of responsibilities beyond the basic duty of care should be set out in a Scottish Countryside Access Code"

From the first two points one can derive the following:

- 1) The individual should be aware of, and prepared to accept, the risks inherent in visiting the countryside or other places (the wording of this is very difficult to get right but the main point is that landowners should not normally be responsible for people falling off hillsides, twisting ankles on paths or, as was suggested as a problem this morning, ignoring a sign stating that there was a danger from storm damage in a particular wood). I personally have little time for those people who sue the Forestry Commission because they have injured themselves on a path - except possibly in cases where a path is recommended for a particular use (e.g. for wheelchairs) and is not safe for that use.
- 2) The individual should know the law, including laws which mainly apply to the countryside (Wildlife and Countryside Act, Poaching Acts). This would deal with most serious problems. The Forum's Report also suggested the Code should emphasise mutual respect and responsible behaviour and at a basic level cover care for the interests of people, care for the needs of land-managers and care for the natural heritage. These are what I would describe as ATTITUDINAL RESPONSIBILITIES.

Care for land-managers should include the crucial point about not interfering with legitimate land-management activities. Much of this is common-sense. Most people if they see a tractor ploughing a field or timber operations will go around them. Where management activities are less obvious, the key is trying to make information about these available to visitors. User surveys have shown people worry about where they can go (most people would be scared that they might walk into a grouse or pheasant shoot) and also that they want more information about such activities. Examples of such information are signs or the Hillphone system. While there is a responsibility to respect such information, it is important to stress that this does not extend to respecting information which is so general as to be useless or which implies blanket bans (the type of message that states that in a certain area stalking, then hind culling, then lambing and then deer calving take place, so avoid except for two weeks of the year).

Returning to the Scottish Countryside Access Code, which has been recommended by the Access Forum, I think we need a short code - short so that it is easily understood, remembered and respected

- and which concentrates on attitudes. I'll give an example - note I've called it an Access Code, not a Countryside Access Code.

A DRAFT SCOTTISH ACCESS CODE - TO PROVOKE DEBATE

- 1) Be aware that you go at own risk.
- 2) Know the law - particularly the law affecting the countryside
- 3) Take care of the natural heritage
- 4) Respect other land-uses/the interests of land managers
- 5) Take account of any information given
- 6) Respect the interests of others
- 7) Follow the appropriate codes for your chosen activity
- 8) Put something back into your enjoyment of the outdoors

Each main message could of course be developed. For example the point about putting something back into the outdoors could cover subsidiary messages such as "Shop locally" or "Do some practical conservation work" or "Take an interest in your local footpath plan".

The attitudinal code should be backed up firstly by more specific information on how to avoid causing the most common problems aimed at the general countryside user: this could be along the lines of the existing Countryside Code (Guarding against risk of fire, leaving gates as found etc).

I also believe we need to develop and promote a dog code, as dogs are the cause of such a large percentage of problems in the countryside.

As well as this we need to aim at particular messages for particular sports/activities. Examples of problems associated with particular activities include:

- Angling - lead weights and abandoned line
- Climbing - cleaning of crags, nesting birds
- Cycling - damage to soft ground
- Horse riding - damage to soft ground
- Hang-gliding - can panic grazing animals
- Camping - damage to vegetation if tent in place too long
- Fungi picking - damage if over picked

It should be the responsibility of the representative organisation for a particular activity to develop such a code (in consultation with other interests of course) and then get this message across. There are already a number of examples of such codes and I would like us to get into a position where they were endorsed by the National Access Forum.

Some people have expressed scepticism about the effectiveness of such an approach on the grounds that the majority of participants for any chosen activity are not members of their representative body. However, evidence from how climbers have dealt with bolts indicates that peer pressure has an enormous effect. The MCofS Bolts Policy has been widely respected despite our relatively low membership.

This approach of subsidiarity, of sub-codes being developed at the appropriate level could also be developed on an area basis as well as an activity basis. For example, a Cairngorms Code could deal with issues such as the impact of feet on very fragile plateau vegetation.

CONCLUDING REMARKS

I hope I have given you something to think about. I have deliberately tried to avoid talking about responsibilities of landowners and land managers although this is the essential other side of the equation. Suffice to say that I believe we have to give landowners the same type of responsibilities and flexibility we give users, but just like users there needs to be legal sanctions to use as a last resort. This means that the new legislation will have to create more effective powers to deal with land-owners and managers who obstruct access or who fail to co-operate on matters such as the creation of new paths.

These are very exciting times for all of us concerned with access. The proposed access legislation for Scotland should give us the basis for what I believe will be a better system of access than even the Scandinavian countries and will make us a world leader on this issue. All of us, as citizens have a responsibility to make sure it works.

Influencing Recreational Behaviour, James Carter

I want to talk today about some of the issues involved in trying to change the behaviour of recreationists in the countryside. Much of what I'm going to say is drawn from work done for the Scottish Sports Council by myself and my colleague David Masters, as well as from reports for SNH by former colleagues from the Centre for Environmental Interpretation and by Malcolm Foley at Glasgow Caledonian University.

'Influencing Recreational Behaviour' implies that the public behave in ways that need changing. I guess most of us think of behaviours that need changing as those that damage the environment, or which are anti-social and affect other's enjoyment or safety. It's sometimes easy as countryside managers to feel that the behaviour of the public in general leaves a lot to be desired but it's worth remembering that not everyone comes into the countryside as a demon incarnate, bent on wreaking havoc. We need to recognise that the behaviours we consider undesirable can be either *intentional*, such as egg stealing, vandalism, or interference with other activities; or *unintentional*, such as eroding footpaths, disturbing livestock, or damaging habitats.

Within each of these categories, behaviour may be borne of malice, out of casual disregard, or simply out of ignorance - a continuum rather than one simple attitude or state of mind. How we respond to the behaviour and try to influence it will depend a lot on why people are doing it in the first place. You're unlikely to be able to tackle malicious behaviour through polite leaflets, and casual disregard may be difficult to address if the activity you want to stop is an important part of someone's experience: speeding downhill on a mountain bike for example. Ignorance seems the easiest to address: if you tell people that picking flowers can lead to them becoming extinct, they'll stop doing it. Well, perhaps.

The problem is that people's behaviour just isn't that easy to influence. Work in the field of health promotion has concentrated on this for a long time, and I believe it has a lot of similarities to the countryside recreation sector. Both of them are concerned with influencing behaviours that may be unconscious, or at least not pre-meditated; both must try to reach their audiences largely through informal means and through persuasion rather than coercion. Health promotion has been very well funded in comparison to countryside recreation work, and programmes are often subject to rigorous theoretical modelling and subsequent evaluation. I think this means that we can learn a lot from them. I want to look briefly at three models that try to explain why people behave as they do which I think are also relevant to countryside recreation.

The Health Belief Model

This suggests that individuals make logical decisions to follow a course of action, having weighed up its benefits, drawbacks and risks. This model is relevant to behaviours that are based on ignorance, since it's through education and information that people get to know about those benefits and drawbacks. The model explains why most people have their children vaccinated against diseases such as measles. An example from a recreation context would be encouraging canoeists to wear buoyancy aids.

This is fine as far as it goes, but people's perceptions of risks are fragile. Recent newspaper reports about possible dangers associated with some vaccines have caused a significant drop in the numbers of people having their children vaccinated, though the actual dangers are unproven or infinitesimally small. The decisions people make are conditioned by their social context as much as by the validity of the information they receive, so our models of why people behave as they do must try to accommodate this fact.

The Theory of Reasoned Action

This extends the Health Belief Model to include the influence of others, such as family or peer group members, on the decisions people make and what they do. Campaigns that use well known figures from the media to support health or recreation behaviour campaigns are drawing on this model. 'Cultural' influences on behaviour may be particularly important in activity sports, where clothing, equipment and behaviour are strongly linked to notions of 'cool'.

But this model is still based on the assumption that behaviour is essentially a response to a logical appraisal of a situation. This is clearly not the case, and more recent thinking on behavioural change has attempted to address the irrational aspects of human behaviour.

The Health Action Model

This attempts to recognise and deal with the drives that may lead people to behave in a certain way even though they know it is harmful, and even though it is against accepted peer group norms. These drives can be powerful: in health promotion work, this model is relevant to campaigns to encourage wider use of condoms: most people know that their use is desirable, and may even say that they intend to use them, but often ignore this in the heat of the moment. Is an otherwise well-behaved mountain biker at the top of a tempting slope in a similar situation? Her 'need for speed' may be too strong for education or cultural pressure to make any difference.

Instead this model suggests that people must be supported in the desired behaviour through other means. In 'safe sex' promotion work these might include wider policy development, to address issues of social and economic deprivation; publicity campaigns to make condoms more erotic; and initiatives to make the desired choices easier, for example by making condoms freely available.

So influencing behaviour is a complicated business, and no-one understands how to do it unfailingly in any situation, or to guarantee that any effects will be permanent!

We must also recognise, and I would emphasise this, that *people rarely change their behaviour just because their knowledge of an issue has been improved.*

A Range of Responses

This perhaps uncomfortable or inconvenient truth means that we have to look to a whole range of possible actions in order to influence behaviour. Before we do anything it's worth making sure that:

- we've defined clearly what the problem is;
- it's having enough unwanted effects to be worth tackling;
- we know what behaviour is causing the problem;
- we know who's doing it;
- we have some idea why they're doing it.

The range of solutions to consider can then include some, or all, of the following:

Information and education

For example, codes of conduct which give information about desired behaviour, together with reasons for it. Developing information campaigns that work is a complex business in its own right. Campaigns must be appropriate to their target audience in both style and their method of delivery; they may also need to use a variety of media and be supported by other initiatives.

Working with target groups

Any information campaign works better if it's been planned in consultation with representatives of the target group. Remember how important cultural norms are: the more an issue is talked about within a group, the more consciousness about it will permeate that group.

Developing a consistent message among different agencies

It's important to work with other organisations that have an interest in the recreation or the behaviour involved, and to ensure that all concerned are presenting the same messages.

Signs

These are a special form of information, to remind countryside users of desired behaviours, preferably at the points where they may be tempted to abandon them. They cannot be expected to work on their own: they should reinforce messages received through other media, or established through peer group influence.

Physical interventions

Such as speed bumps or gates.

Surveillance and 'policing'

These may be the only options to address malicious behaviours.

Policy development

Health promotion work increasingly recognises the importance of the wider social context within which people make choices about their health and lifestyle. I think the same is true for countryside recreation: it is a facet of society as a whole, and we can only hope to influence behaviour in the long term through working at strategic levels as well as at the coal face.

Examples of this might include wider education work, or holding discussions with outdoor equipment manufacturers to discuss the images and expectations established by their publicity campaigns, or lobbying members of the new Scottish Assembly.

I mentioned before that work on influencing behaviour in the health promotion field was well researched and thoroughly discussed. I suspect that in the countryside recreation sector our understanding of the complexities involved, and of the range of approaches possible, are still evolving. Perhaps we need to develop some sort of forum where issues, ideas and projects can be discussed on a regular basis.

Whatever happens, I am sure people will find ever more interesting ways of doing things that we wish they didn't!

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Effective Countryside Education for All, Betsy King

Thanks for inviting me to speak to you; education has been one of the most used words today, threaded throughout the conference.

We are meeting today at a very exciting time for Scotland, a period of extremely rapid change. The new proposals for Access to the Countryside in Scotland offer just one of a whole range of opportunities for people in Scotland. Opportunities, though, often come with problems attached and access is no different. The problems which have been discussed throughout the day range from livestock worrying, vandalism and damage, to dumping and the conflicts between users such as motorbikers and walkers. Education is often called for as a remedy. The Access Forum's proposals, for example, call for a "*major programme of education*" to be put place. Between us, Alison Irvine and I hope, with your help, to discuss what effective countryside education might be and to come up with pointers as to how a major programme of education of this sort could be achieved. There are no immediate answers, education is a long-term process.

It is useful first to look at the terminology used here. John Grant said at the beginning of the day "language is the key to progress". '**Countryside**' for most people conjures up the image of a 'green place' out there somewhere, not the patch of local wasteground with its stream and path where the dog is walked. People relate most closely to their immediate surroundings or **environment**. The whole **local environment** is therefore the starting point for learning, the natural environment being inextricably interconnected with the physical, built, social, cultural, economic and historic environment. The current trend is to work towards viewing these elements together with the focus on sustainable development. Effective countryside education therefore starts in ones own backyard, not the piece of special landscape which is only reached at weekends or holidays by car or bus.

'**Education**' is another term which has to be carefully defined. Many people think of education as being confined to what happens in schools and universities but there are many other routes for learning. Education is lifelong guided learning through **all** available channels. People learn by being instructed (by parents, schools, employers), by experiencing things for themselves (e.g. role play - access issues by outdoor experience not in school), and by example from the people and environment in which they lead their daily lives e.g. peer group pressure. Any effective programme for education therefore needs to start with the formal education system but to reach beyond into every part of life. This is a massive task and one which is best planned for by involving educators right from the start in the development of any proposals and policies. I look forward to this in the development of the Access Forum education programme.

Effective environment education, then, aims to impart knowledge which will foster awareness and understanding, and develop the skills, values and attitudes which will lead people to take effective action in support of the environment in their daily lives. It can take place in a very wide variety of contexts in which we find ourselves in our daily lives: in the home, community, workplace, at leisure, as well as in school and university. Many of you will recognise these as the contexts in *Learning for Life*, a National Strategy for Environmental Education in Scotland 1993

So what is already happening in these contexts that will support a major education programme related to 'Access in the Countryside' in Scotland? It is difficult in a short time to give more than a very broad overview of the current situation. In the formal sector there are a number of current developments.

- All the 5-14 Curriculum Programmes are to be reviewed over the next few years with full consultation. The process has started with Environmental Studies 5-14 where the focus of the review is on content reduction and simplification. It is unlikely that anything new will be added

to the curriculum but there are opportunities for Access to be used as an example within the existing curriculum

- At secondary level the Higher Still developments are to be phased into schools from Autumn term 1999. Here there is a new subject, Managing Environmental Resources which has access issues as a potential element. Teachers will require resource material to be able to deliver the programme effectively.
- At a strategic level there are new Secondary School Curriculum Guidelines to be published in 1999 after wide consultation. The aims stated in the draft Guidelines for the whole curriculum include the need to encourage a sense of social responsibility in addition to responsibility for self and for others. The Curriculum and the Culture of Scotland consultation paper (1999) also outlines the need for discussion of 'educate for citizenship' and its place in the curriculum. Citizenship is likely to be a major theme over the next year.
- Teacher education will be critical in the delivery of these new initiatives and work will be required to make teachers aware of the issues involved with Access.

In the informal and non-formal sectors there are many new initiatives which could contribute positively to an education programme related to access.

- Every local authority in Scotland has a Local Agenda 21 Co-ordinator. All councils have been asked to produce a LA21 Action Plan by December 2000. Education and awareness activities should play a major part in the development and implementation of Action Plans. Access is an obvious issue to be considered in the proposals.
- Public participation in addition to consultation is a concept which is increasingly demanded rather than accepted as a way of working. The Paths for All Partnership has led the way encouraging the development of successful access networks in Scotland through the involvement of those who will use them.. This is successful education which has benefits far beyond the immediate locality of the path network being considered.
- The proposed local Access Fora should be a focus for developing local education strategies in addition to providing an educational experience themselves through partnership and participation. There is an opportunity for Access Fora to draw on the expertise of the Regional Environmental Education Fora (REEFs), partnerships of all those organisations with an interest in environmental education, to plan and deliver an education programme locally.
- The recent report *Communities: Change through Learning* on the future of community education in Scotland has suggested three priorities for community action: lifelong learning, social inclusion and active citizenship. Active citizenship and access are closely related and this should be built on.
- Opportunities in recreation and leisure are perhaps most obvious to this audience as excellent opportunities to learn by example and practical experience. Events, guided walks, publications and practical activities guide by rangers, activity instructors and youth leaders can provide excellent examples of effective countryside education.

Alison Irvine is going to lead us into more detailed consideration of what makes an effective learning experience.

Effective Countryside Education for All, Alison Irvine

How to achieve effective countryside education is not an easy question to answer and there may well be as many effective ways of putting across a message as there are people to receive it.

Ways of passing on an educational message include: formal schooling, peer pressure, by example e.g. parents, advertising and media, television and radio “soaps”. To ensure people have a high exposure to the message, partnership working between several different authorities and organisations is probably the most effective way forward.

Any attempt to educate in order to change attitudes and behaviour is essentially a very long-term process and it is hard to say whether it has been successful. It is, for example, much more straightforward to teach someone about food webs or the names of six plants, than to teach them to change their behaviour.

My experience has mostly been with young people in formal education, or with individuals in a Country or Regional Park. For these individuals, I know that quiet reasoning is best and that shouting or sarcasm only makes people more likely to repeat the unwanted behaviour. Quiet reasoning may not have an immediate effect, but can have an influence when people have had time to think about it.

For formal education, there are some good principles to use to create an effective learning experience. It is very important to start where the learners are, in terms of their knowledge and experience. Talking beyond that point goes over their heads and creates a negative learning experience. Ideally, educational work should always have a focal point, i.e. something concrete for the learners to see, hear or touch. This is perhaps why education about attitudes and behaviour, as essentially non-concrete things, can be more difficult to achieve.

Yet another version of the 3 R's: Reward, Reinforce and Relate, should always be remembered. You will get the behaviour you reward for. Give constant reinforcement of the message and relate it to their own lives in some way. All of us, who wish to see changes in people's behaviour in the countryside, really must model that positive environmental behaviour. It is no use expecting children to always use gates or stiles if they have seen you hopping over the fence to let your dog run in the field, no matter how justifiable or damage-free these actions may seem to you. If you care, they'll care.

However, at the conference today we have a gathering of more than 100 committed, knowledgeable and enthusiastic people, who have all got responsible countryside access close to their hearts. So I am now going to use a workshop technique to extract from you some answers to the question

“What is effective countryside education?”

From the experience of the audience we extracted the following ideas of what was effective in providing a lifelong educational experience for them.

- Personal, first-hand experience of the countryside, perhaps from an early age. A sense of wonder or awe of nature.
- Having someone inspirational, enthusiastic, charismatic and competent to learn from, look up to and believe in. Learning by example from such a person or people, e.g. parents or another relative, teacher, media personality.
- Fun, active, hands-on, interesting experiences, especially when young.
- Practical, often shocking, examples of the result of inappropriate behaviour. Near-miss experiences in the countryside, e.g. finding a mouse drowning in a crisp bag, a friend getting badly cut feet on broken glass, narrowly escaping cattle with your dog.

- Meeting and having time to talk with the people on the ground, e.g. stalker, farmer, shepherd, and more to the point, feeling they had time to speak to you.
- Being aware of an environmental ethos or culture that exists in the area or community you are in (another type of peer pressure?).
- Films and the media. Use of appropriate techniques - excellent photography, use of cartoons and humour.
- Legislation, enforcement, fear of retribution and guilt.

It seems that the lasting changes to the behaviour and attitudes of an audience such as this have come mainly from strong personal, first-hand experiences. Everyone who works in or uses the countryside and who feels strongly about making a success of any changes to access law in Scotland must take these principles to heart. We are the people who can make time to create these effective educational and behaviour changing experiences, both through our work - whether rangers, outdoor leaders, farmers or land managers, and in our leisure time when we are users of the countryside. All of us have something to offer all other users - remember our behaviour influences others and the first-hand positive experience will have a long lasting effect.

We cannot go into the new era of access with rose-tinted spectacles, expecting overnight changes in everyone's behaviour in Scotland's countryside. But I also believe that change is possible, and that we all have a role to play.

Plenary 2	<i>questions / answers</i>
John Grant	Battleby may not be the ideal location for conferences given the travel difficulties encountered to get here, and its run by an organisation that is advocating sustainability!
<i>Ian Jarvis</i>	<i>Agree with John. Left Glasgow on 0550 bus to Luncarty (the company no longer operate 0750 service!) Need integrated transport. Wider policy support to Access is needed.</i>
Richard Davison	Need local path networks nearer to towns - 40% of population do not have access to a car.
Alison Irvine	Need greenbelts, local greenspace, to ensure countryside exists near to where most people live.
<i>Heather Maslem</i>	<i>If you have a path network with local agreements, what is the liability regarding dogs/ cattle. There is tension and opposing views from SLF & NFUS members over rights of way/ access. Negotiations progress well until liability is mentioned. What can SCAN do to help?</i>
John Grant	Everyone is looking to the Access Forum to develop these issues.
Richard Davison	NFUS are actively involved. Need to encourage farmers to become more involved. Would like to see NFUS get a National Access Officer to help things along.
Marian Silvester	Endorse what Richard said.
<i>Colin Miller</i>	<i>Inter-action of practice of access and farming industry is not always good.</i>
<i>Alistair Hackston</i>	<i>SLF - positive reaction. Asked landowners present for their opinion of what changes/ elements they could bring to a discussion/ debate to make things more comfortable?</i>
John Grant	To summarise: <ol style="list-style-type: none"> 1) What can individuals contribute? 2) What individuals need out of it? 3) Are they onboard??
Marian Silvester	Surprised at how welcoming SLF members are to Access. There are two reasons for this. They have been involved since the start of the debate and there has been good feedback to members on how things are going. Concerns still exist but less than they think.
<i>Tony Dyer</i>	<i>I have found that the trend is for more co-operation than five years ago. Access Forum is already paying dividends.</i>
<i>Dave Morris</i>	<i>Access should be taught outdoors not in a classroom. Could be a problem trying to teach young kids access as they spend very little time outdoors.</i>
Betsy King	Totally agree with Dave. Work done today shows experience is the most important element. But does not need to be miles from school - can occur in school grounds. Schools are constricted by restrictions both legal and financial. Closure of outdoor centres also affects education in schools.
Alison Irvine	There needs to be changes in educational policy to cope with this stuff. But there may be a turn-off e.g. bad weather. Also, 30 five year olds on a coach for short journey - cost could be £80+!
<i>Alex Sutherland</i>	<i>I see a triangle of environmental awareness (environmental education, education, public access). Where is environmental awareness born? I would say, as a young child having formative contact</i>

with the natural environment through walking, etc. Some people feel SNH has moved away from CCS ethos, but are slowly getting better.

Robin Satow *Is new Code going to be statutory or not?*

Richard Davison It will have strong status and will be referred to in legislation. Hopefully will define “responsibility”. Key is to get messages into supporting information, not necessarily legislation.

Will also be a paper on how to give the Code a real practical effect.

Alison Irvine Never be 100% good behaviour in countryside. Get Code to have practical effect is a long term project.

But things WILL change.

SUMMATION

Chairperson closed the meeting, thanking everyone for their attendance and participation, with a special mention for the quality of the food.

SCAN is a forum for discussion and sharing of a wide range of ideas - it does not have a 'collective' view or opinion.

Statements expressed at our conferences by speakers represent their own, or their employer's, views.