










1. Do you think that there is a need to make significant changes to the provisions of the Act?

		Response Percent	Response Count
Yes		26.2%	11
No		64.3%	27
No Comment		9.5%	4
	Please give details		17
answered question			42
skipped question			1

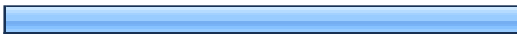


2. Are there any specific sections of the Act in need of modification?

		Response Percent	Response Count
Yes		61.9%	26
No		19.0%	8
No comment		19.0%	8
	Please give details		27
answered question			42
skipped question			1

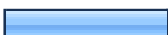
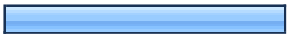

3. Is there any provision you would like to see added to the Act?

		Response Percent	Response Count
Yes		33.3%	14
No		40.5%	17
No comment		26.2%	11
	Please give details		15
answered question			42
skipped question			1




4. Do you think the Act is broadly working well?

		Response Percent	Response Count
Yes		83.3%	35
No		2.4%	1
No comment		14.3%	6
	Please give details		9
answered question			42
skipped question			1

5. Do you think guidance provided to Local Authorities and National Park Authorities under section 27 of the Act is adequate?

		Response Percent	Response Count
Yes		26.2%	11
No		45.2%	19
No comment		28.6%	12
Please give details			21
answered question			42
skipped question			1

6. Section 14: Prohibitions signs, obstructions, dangerous impediments etc. Do you think that Subsection (1) requires clarity in the definition "for the main purpose"

		Response Percent	Response Count
Yes		63.6%	21
No		18.2%	6
No comment		18.2%	6
Supplementary comments			14
answered question			33
skipped question			10




7. Section 18, Core paths plan: further procedure Is amendment required to clarify the process of resolving objections?

		Response Percent	Response Count
Yes		60.6%	20
No		12.1%	4
No comment		27.3%	9
Supplementary comments			13
answered question			33
skipped question			10




8. Section 20: Review and amendment of core paths plan Is amendment required to clarify process of reviewing and amending a core paths plan?

		Response Percent	Response Count
Yes		66.7%	22
No		18.2%	6
No comment		15.2%	5
Supplementary comments			15
answered question			33
skipped question			10




9. Section 20: Review and amendment of core paths plan Do you think there is a need to remove the differences in procedure between a route addition [sub section(6)] and a deletion or diversion [ss(2)]?

		Response Percent	Response Count
Yes		57.6%	19
No		12.1%	4
No comment		30.3%	10
	Supplementary comments		11
answered question			33
skipped question			10


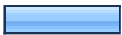

10. Section 23: Ploughing etc Do you think the act would benefit from clarification of the meaning and scope of 'etc'?

		Response Percent	Response Count
Yes		54.5%	18
No		21.2%	7
No comment		24.2%	8
	Supplementary comments		11
answered question			33
skipped question			10

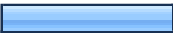
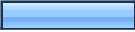

11. Section 24: Rangers Do you think there is a need for the addition of 'Access Officers' in the title and at each occurrence?

		Response Percent	Response Count
Yes		66.7%	22
No		21.2%	7
No comment		12.1%	4
Supplementary comments			14
answered question			33
skipped question			10

12. Section 25: Local Access Forums Should there be a new subsection to recognise NAF?

		Response Percent	Response Count
Yes		57.6%	19
No		18.2%	6
No comment		24.2%	8
Supplementary comments			11
answered question			33
skipped question			10

13. Section 28: Judicial determination of existence and extent of access rights and rights of way Do you think there is a need for the addition of a new sub-section "(9) the decision of the Sheriff is final"? It has been suggested that this could streamline the legal process, and equate with s61(7)(c) (Part Two) and s91(8) (Part Three) of the Act.

		Response Percent	Response Count
Yes		27.3%	9
No		21.2%	7
No comment		51.5%	17
	Supplementary comments		9
	answered question		33
	skipped question		10

Page 1, Q1. Do you think that there is a need to make significant changes to the provisions of the Act?

1	Some minor amendments could make a big difference, together with updated and more comprehensive guidance.	Dec 12, 2012 7:01 PM
2	Some intermediate stage of enforcement for breaches of the Act like fixed penalties for certain things. A better means of linking the LRA to such Acts as the Dogs Acts so more control of public with out of control dogs.	Dec 12, 2012 5:12 PM
3	See question 2.	Dec 10, 2012 1:08 PM
4	Generally I think the majority of part 1 of the Act works well, with a few exceptions. However I do think that there is some necessity to either tighten up on some sections of the code	Dec 10, 2012 11:44 AM
5	I think on the whole the Act has shown itself to work very well. The main measures needed to ensure effective management of outdoor access are actually the 'softer' measures that support the Act.	Dec 10, 2012 11:23 AM
6	More tweaks than significant changes.	Dec 3, 2012 2:09 PM
7	Some areas are not clear & different LA's are following different courses, depending on their interpretation of the LRA with regard to Core path plan procedure.	Nov 23, 2012 3:17 PM
8	Not significant changes, but some smaller changes to the legislation and guidance.	Nov 23, 2012 2:24 PM
9	I believe that in addition to the suggested changes to the act the Scottish Outdoor Access Code should be reviewed and some better guidance on issues such as Wild Camping, Commercial Activities and Events included. This should be based on good practice that has been developed since 2003. Once the Code has been reviewed it should be republished and work should be undertaken to encourage better public awareness.	Nov 22, 2012 3:13 PM
10	The Act needs to set tighter parameters in some cases rather than rely on the Code which is often open to interpretation and at worst can be disregarded. Areas of particular difficulty are: 1. Camping & related mess mostly in roadside camping situations. 2. Lack of effective remedy/ deterrent where people do not act responsibly (landowners & access takers) 3. Difficulty with judgement about where access rights apply especially in relation to large houses. More clarity in the Act and cross reference to SOAC may avoid disputes and costly/time consuming court proceedings. 4. Problems in relation to crossing railways. Modification of the Act could allow for this by way of long established and safe crossings. 5. Exemption orders should be simplified to include all land within the specified area including core paths and rights of way. This would simplify the procedure and add to public understanding of the order. 6. Third party involvement in s28 cases, parties with a direct interest can currently be excluded from the process.	Nov 19, 2012 12:53 PM
11	s	Nov 15, 2012 2:37 PM
12	Core paths to meet a certain standard.	Nov 13, 2012 10:12 AM
13	there are too many areas that are up to interpretation, therefore people do not always do what is responsible	Nov 11, 2012 11:24 AM
14	Not significant but see below.	Nov 9, 2012 10:06 AM
15	Changes yes, but not significant.	Nov 9, 2012 9:47 AM

Page 1, Q1. Do you think that there is a need to make significant changes to the provisions of the Act?

16	This is only in relation to Part 1.	Nov 7, 2012 3:46 PM
17	ability of commercial users to use land for their own commercial purposes - should be restricted riding and cycling - should be restricted LAs have the ability to delete and divert core paths but not introduce new ones without full consultation on the whole plan, this latter should be possible following local consultation on just the path in question. there is a specific error in section 20 (1) where the word 'and' should be replaced with the word 'or' Section 7(1) enshrined the ability of core paths to follow lines over land that would be excluded from access under section 6. However, the DPEA in our case took the view that if land was excluded by section 6, it shouldn't be made a core path suing 7(1), as privacy over-rode the right of access, even where access had historically been taken. This should be clarified, as if applied uniformly this would have a significant impact on all core path plans.	Nov 7, 2012 2:31 PM

Page 1, Q2. Are there any specific sections of the Act in need of modification?

1	The right of "wild camping" seems to be interpreted as a right to camp anywhere including next to your car, 300 metre from your house etc. The guidance on this is wishy washy and ignored. The role of Core Paths in Planning and their legal protection is also a bit vague.	Dec 13, 2012 12:32 PM
2	Section 6 and/or 11 - this needs to be modified to include core paths that are temporarily closed due to construction works, and for purposes other than events. Section 27 - Ministers should be required to ensure guidance is updated. Section 20 - requires clarification in the light of practice.	Dec 12, 2012 7:01 PM
3	Clarification of section 20 for the circumstances we are legally allowed to divert or delete core paths	Dec 12, 2012 5:12 PM
4	S11. The proposed changes to enable S11 exemptions to cover core paths, need to be implemented as soon as possible. S14. See response to question 6. S20(1) - See response to question 8	Dec 12, 2012 11:31 AM
5	Major issue with dogs being under control - not properly defined & with the rise of professional dog walkers taking 6 dogs at a time this causes real concern to other users and a mess which is not being dealt with.	Dec 10, 2012 2:09 PM
6	Section 14. By permitting an owner to appeal a notice to the Sheriff Court is overly burdensome and costly, it then may commit a local authority to court action which would not have taken but could not otherwise have the offending sign or obstruction removed without a Notice. Perhaps some distinctions can be made and only the most serious, for the owner, can be taken to a Sheriff? Secondly, if a case does go to the Sheriff then insert the following phrase into section 14 "the decision of the sheriff in an appeal under this section is final" as it does in Section 61 of the Act. Or alternatively remove the phrase from section 61, which currently implies the reverse to all other sections. This would then limit the delay and cost of any dispute.	Dec 10, 2012 1:08 PM
7	Core Path Closures and methods for managing the network and access	Dec 10, 2012 10:56 AM
8	Section 20(1)(b) "on" should be changed to "or" Section 23 "Ploughing" should be changed to "land management operation including construction" Section 24 (3) Access Officers should be included	Dec 10, 2012 10:45 AM
9	S14 and S15 to give indisputable clarity on powers available to AAs. S17 to S20, to ensure AAs across the county (and Reporters Unit) have consistency in judgement. Also give greater local powers to AAs. S23, does good husbandry stretch to all land management?	Dec 3, 2012 2:09 PM
10	Section 20 (1) a) and b) - or needs to replace and between these two sub sentences. The Ministers agreement to review the CPP if the access authority has already decided it is appropriate.	Nov 27, 2012 4:29 PM
11	section 14 needs to be simplified in order to allow local authorities to take action more easily	Nov 26, 2012 3:31 PM
12	S.10: The Scottish Outdoor Access Code is useful guidance, but from the LRA court cases so far, it doesn't appear to have much legal 'power'. In terms of access management, there seems to be very little we can do to prevent access by people not behaving responsibly - particularly in relation to dogs not under proper control. S.14: If someone does something to obstruct access rights, and the local authority serves notice under s.13, and that person then appeals against the notice, the obstruction can remain in place until such time as the case is determined by a Sheriff - which could be	Nov 26, 2012 2:32 PM

Page 1, Q2. Are there any specific sections of the Act in need of modification?

months. S.15: The local authority should have more powers to notify access takers of when it would not be responsible to use a particular route - for example, if horse riders should not use a particular path if it has recently been constructed and is still 'bedding in'; or when dogs running loose will disturb ground-nesting birds. Leaving these decisions solely up to access takers to decide whether or not they are being responsible does not work practically 'on the ground'.

13 Section 11 - simplify process for temp closure of access rights. More guidance on how to publicise & in what format, to inform public of closure. What to do if LA refuses request for a section 11 order, and is there a way to appeal against the Scottish Ministers if they refuse to confirm an order. Nov 23, 2012 3:17 PM

14 Section 24 should include staff authorised by an access authority, not just rangers. Section 11 power of exemption should include core paths and rights of way. There are a number of references to local authorities that should be changed to access authorities. The guidance to access authorities needs to be updated, particularly in light of core paths plans having mostly been adopted, the court judgements, local access forums having been set up, etc, etc. A but more clarity in the act as to what is included as far as non-motorised access is concerned, particularly thinking of carriage drivers who, if included, could hinder the restriction of motorised access. Nov 23, 2012 2:24 PM

15 Section 11 needs to be modified to allow Core Paths to be closed at the discretion of Access Authorities with a simple application process to encourage land managers to engage with the Access Authority. There should be a presumption that a land manager will be permitted to close a path only where they can demonstrate that there is a significant health and safety issue which can not be reasonably managed in any other way. The closure should always be for the minimum time and area possible and where practicable the applicant and the Access Authority should identify practical diversion routes. There should be provisions for the access authority and the land manager to share the duty to publicise the closure. For large projects such as felling in a forest there should be no requirement to seek the permission of Scottish Ministers for closures running to several months, although there could be a role for the access forum. Section 6/7/9 - possible amendment to in some manner define areas where it is appropriate to wild camp. Perhaps many current issues could be regulated by stipulating that a wild camper should be more than a set distance from their motor vehicle, ie provided they walk, cycle, canoe, ride more than a couple of miles they are not wild camping. There might need to be provision to allow people to camp in a tent or bivvy bag in a layby for one night only to facilitate hill walkers and others who wish to access the hills and other areas. Section 26 Power of entry - Could an Access Officer be given the power to enter land that is outwith access rights without the requirement to give reasonable notice to the owner. This could be limited to land and would exclude buildings and require the Officer to seek permission at the time. There has been an occasion whilst surveying a core path an officer walked across a farm yard and took a couple of photographs to illustrate a report on a proposed addition to the plan. The land owner challenged his right to be there on reading the report and an apology was made. Nov 22, 2012 3:13 PM

16 But there are sections of the SOAC that need reviewing to assist LA's in encouraging more responsible use. These relate to dogs, wild camping and field margins Nov 20, 2012 4:53 PM

17 1. Section 9 could be modified to exclude the conduct of camping within a Nov 19, 2012 12:53 PM

Page 1, Q2. Are there any specific sections of the Act in need of modification?

	<p>set distance (say 500m) of a public road. 2. Section 14 could be modified to allow enforcement action (removal of obstruction) once the notice has run its course but prior to any appeal process. Consideration should also be given to the low volume of enforcement action taken to date (31 s.14 notices served over 7 years by 36 Access Authorities across Scotland) to determine whether as the primary enforcement power s.14 is fit for purpose. 3. Section 10 modified to legitimise the guidance already provided within SOAC about where access rights apply e.g. in relation to houses and gardens 4. Section 6(1)(g)(ii) It would be especially helpful if this section was modified to make clear that whilst access rights do not apply to live railways on account of the "statutory undertaking", access rights may be exercised over/under railway bridges, level crossings, underpasses and other infrastructure designed to facilitate passage. 5. Section 11 (& 7) modified to include all land in specified area including core paths and rights of way 6. Section 28 (6) where a local authority only is served the party with an interest can be unaware and uninvolved, this should be modified to make it necessary to provide adequate information to third parties</p>	
18	Cemeteries should be excluded from Access Rights. Local Authorities have a wide range of rules for dealing with dog walking in Cemeteries, which contradict access rights for dog walkers.	Nov 19, 2012 10:18 AM
19	s	Nov 15, 2012 2:37 PM
20	Section 19 - maintaining core paths to be a duty rather than a power.	Nov 13, 2012 10:12 AM
21	dogs being under control, saying dogs to be kept under close control is not enough especially around cattle and sheep. they should be told to put them on leads around livestock. sheep worrying is still a big issue.	Nov 11, 2012 11:24 AM
22	S20 needs amended to give clarity	Nov 9, 2012 2:27 PM
23	It's perhaps not the Act but the Code which needs to more accurately interpret the legislation as regards dogs and responsible behaviour.	Nov 9, 2012 10:06 AM
24	Section or one of the core path sections to allow them to be closed for works as highlighted in the Section 11 consultations. Section 15 to ensure clarity that on core paths signs, boundary crossings and bridges can be installed without out the permission of the landowner would be helpful.	Nov 9, 2012 9:47 AM
25	When developing new paths you still need to get landowner's agreement. This can hold up the development of a much wanted path for years. If local surveys etc have shown a significant demand for a path then there should be provision for a "quick" path order that allows development to proceed without the current very protracted negotiations (sect 22) Need a clearer definition of "development" in Sect 2. Developers are excluding the public from areas of land stating that there is development taking place and yet no physical works are being carried out. With windfarms, the public are excluded during development stage and yet there might only be work in a very small part of the site. It should be possible to exclude the public from small areas as is done during forestry operations.	Nov 8, 2012 12:10 PM
26	The explicit use of the SOAC needs to widened in the legislation. Long term closures of core paths needs to be incorporated Long term S11 orders should be simplified Powers of entry for access officers	Nov 7, 2012 3:46 PM
27	see above	Nov 7, 2012 2:31 PM

Page 1, Q3. Is there any provision you would like to see added to the Act?

1	Provision to allow temporary closure of core paths for purposes of construction, development and improvement.	Dec 12, 2012 7:01 PM
2	There needs to be greater protection or recourse for land managers against those who behave irresponsibly.	Dec 10, 2012 1:08 PM
3	Provision to temporarily close core paths using the legislation for the purposes of development/maintenance etc	Dec 10, 2012 11:44 AM
4	Better definition of privacy zones	Dec 10, 2012 10:58 AM
5	S19 and S20 would benefit from more powers being given to AA. S15 should include the power to install LRA compliant gates. We have had issues with incompatibility around Dangerous wild animals act and LRA, a provision which cleared rights would be appreciated.	Dec 3, 2012 2:09 PM
6	the aboility to close core paths - though this is being currently looked at	Nov 26, 2012 3:31 PM
7	Much more specific, detailed definitions to assist practical access management, for example: "privacy" and "curtilage" - these are too vague and court cases have not helped to clarify these.	Nov 26, 2012 2:32 PM
8	Core paths should be exempt from access rights for maintenance work, there should be more straight forward facility for LA's to close core paths quickly/ routinely for safety.	Nov 23, 2012 3:17 PM
9	Some firmer requirement for local authorities or the Scottish Government to provide adequate funding to maintain paths and either directly or indirectly fund the maintainince of paths. This would leave communities, lotteries and others to fund the upgrade of paths.	Nov 22, 2012 3:13 PM
10	Due to the Act being civil law the police have no enforcement power in relation to irresponsible access. It would be helpful if those found to be acting irresponsibly could be charged. For example if not camping responsibly they could be moved on without the need to demonstrate littering, vandalism etc. The Act repealed or modified a number of other enactments. It is possible new offences could be created in this way for the Police to act upon.	Nov 19, 2012 12:53 PM
11	s	Nov 15, 2012 2:37 PM
12	Section 15 - local authorities should have the power to install gates etc without landowner permission.	Nov 13, 2012 10:12 AM
13	More consideration to protecting the natural heritage.. SEction 29 or whatever it is is feeble.. people simply don't obey signs - how naive!	Nov 9, 2012 10:06 AM
14	The ability to carry out works to create core paths once the core paths plan has been adopted without the ladnowers permission would be useful. This could be by notification with a period for them to appeal the works that have been included in the notice.	Nov 9, 2012 9:47 AM
15	More power for LA's to implement path orders after a fixed amount of negotiation time.	Nov 8, 2012 12:10 PM

Page 1, Q4. Do you think the Act is broadly working well?

1	Access for disabled mobility scooter & powered wheelchair users could be better although I appreciate that changing the Act cannot necessarily address this. Local Authorities need to address this.	Dec 10, 2012 5:53 PM
2	m	Nov 23, 2012 3:17 PM
3	Broadly yes, but there are a lot of minor issues that need to be cleared up. Do access authorities have powers to deal with signs and gates that were there prior to the act? Just what happens to people who do not act responsibly? How can landowners who hinder access be dealt with?	Nov 23, 2012 2:24 PM
4	Generally land managers accept Access Rights and the public behave responsibly. The funding available to improve paths has not really materialised and this will increasingly a problem.	Nov 22, 2012 3:13 PM
5	Gives a good framework for the statutory right of public access in Scotland.	Nov 19, 2012 12:53 PM
6	s	Nov 15, 2012 2:37 PM
7	Well the court decisions which went against local authorities do send a signal that land managers and owners can still do what they like... and in this economic climate and with those cases, local authorities cannot afford to challenge cases in court	Nov 9, 2012 10:06 AM
8	Given the huge changes that the Act brought the problems are all very small in comparison.	Nov 9, 2012 9:47 AM
9	`	Nov 7, 2012 2:31 PM

Page 1, Q5. Do you think guidance provided to Local Authorities and National Park Authorities under section 27 of the Act is adequate?

1	Much of the guidance is a bit vague - especially in relation to Core Paths - although it is largely too late to do anything about it.	Dec 13, 2012 12:32 PM
2	Absolutely; there are many sections where no guidance is given at all, and many other sections which require augmenting and updating in the light of practice.	Dec 12, 2012 7:01 PM
3	Needs to be updated to reflect that we are all further down the line, court cases have given some indication of how it will be interpreted etc. But have found it very helpful.	Dec 12, 2012 5:12 PM
4	Generally the guidance is adequate. There would however be benefit in reviewing the guidance based on experiences gained since implementation of the Act. In particular the advice relating to S14, and S17 to S20 (core paths) should be reviewed.	Dec 12, 2012 11:31 AM
5	Generally yes, although it could probably do with updating in light of experiences.	Dec 10, 2012 1:08 PM
6	Not sufficient nor reflecting best current knowledge	Dec 10, 2012 11:23 AM
7	Further guidance on CDM boundaries and access provision would be useful	Dec 10, 2012 10:58 AM
8	The guidance is outdated and needs regular updating to reflect developments in case law, new legislation and experiential learning within the access sector. Specifics relate to wording in notices etc.	Dec 3, 2012 2:09 PM
9	The Guidance should be re-drafted in light of the last ten years experiences of the LR legislation. The draft section 21 path agreement is not fit for purpose and in our experience needs multiple tweakings by legal advisors to make it legally robust. Further guidance is needed on the wording of the Section 14 Notice, especially the need to specify which of the subsections a) to e) in para 14(1) is the reason that the Notice is being served.	Nov 27, 2012 4:29 PM
10	This guidance was written before the Act came into effect and before many of these types of situation had been encountered. It is lacking in detail and practical ways of making the Act work 'on the ground'. The best way to improve this guidance would be for Access Officers to be involved in drafting it, as they are the people with the best experiences of practical use of the Act. It should not be left solely to SNH or others to re-write without any input from Access Officers.	Nov 26, 2012 2:32 PM
11	It is completely out of date and needs to be re-written.	Nov 23, 2012 2:24 PM
12	I am not aware of any guidance being given under section 27.	Nov 22, 2012 3:13 PM
13	Now that the Act has been in place for a number of years improvements could now be made to the sections relating to privacy, core path planning and updating/expanding on sections of the SOAC in relation to responsible use particularly in relation to dogs onlead/under close control, field margins and wild camping.	Nov 20, 2012 4:53 PM
14	The guidance should be reviewed and updated with the benefit of experience. In particular the core path planning Section 18 further procedures and the guidance caused PKC and others difficulties in that there was a lack of clarity regarding whether Local Authorities were able to modify their CPP or whether only the Ministers were able to do so. Also the	Nov 19, 2012 12:53 PM

Page 1, Q5. Do you think guidance provided to Local Authorities and National Park Authorities under section 27 of the Act is adequate?

guidance states that local inquiries will only investigate the sufficiency of the Plan rather than address matters of individual paths. This has been seen to not be the case. In addition the expectation that any adopted core paths should be made available for use within 1-2 years (guidance 17(2)(d)) is unhelpful in relation to the realistic implementation of the CPP. There is a danger that paths that cannot be implemented in the short term aren't included within CPPs and are therefore not prioritised. It may be more realistic to revise the Guidance to suggest paths are included if they can be made fit for purpose within the lifetime of the Plan – the default for this being 5 years in line with the LDP.

15	s	Nov 15, 2012 2:37 PM
16	Guidance for Section 20 Review and amendment of core paths plan is inadequate.	Nov 13, 2012 10:12 AM
17	In light of seven years experience, a handful of court cases and much discussion with local authority legal depts, there is a definite need to update the guidance. It is very scant on detail in several places and much could be done to improve it.	Nov 12, 2012 11:16 AM
18	Now out of date and needs to give clearer direction on amending/reviewing Core paths plans	Nov 9, 2012 2:27 PM
19	This should be revised in the light of experience and really by the people that are actually implementing it day to day and not be people at the periphery without the practical experience of using the Act.	Nov 9, 2012 9:47 AM
20	Updates as case law develops would be useful.	Nov 7, 2012 3:07 PM
21	largely adequate but could be improved There are two versions going around with the same date; it would be useful if the later version (which refers to local authorities and national park authorities) could be identified as the current version. The privacy zone is the most vexatious concept of the Act, and could do with a lot more narrative and examples Electronic enablement of responses to consultation has been abused, this needs to be re-considered There is no guidance regarding reviewing path plans It seemed clear from the guidance that LAs could modify draft plans in response to consultation, but the DPEA seemed to think that this was not the case, this should be clarified	Nov 7, 2012 2:31 PM

**Page 2, Q6. Section 14: Prohibitions signs, obstructions, dangerous impediments etc.
Do you think that Subsection (1) requires clarity in the definition "for the main purpose"**

1	there are many instances where the main purpose of an action is not to deter access but the action has been deliberately done to deter access. For example using a specific kind of gate where a cheaper or easier alternative gate would be "access friendly".	Dec 13, 2012 12:55 PM
2	This is an absolute get out clause for landowners, householders who wish to prevent public access, but it is very hard to see how it could be changed, as they need to be able to things in genuine circumstances. Maybe the onus of proof that they are not doing it to prevent access falls on them, and we do nothave to try to prove they are doing it to prevent access.	Dec 12, 2012 5:18 PM
3	It is difficult to prove the purpose of an obstruction. The test should be whether the obstruction is reasonable, taking into account both land management considerations and the needs of access takers.	Dec 12, 2012 1:37 PM
4	It is difficult to determine otherwise if a landowner states that an obstruction was for another purpose.	Dec 10, 2012 1:27 PM
5	"for the main purpose" is subject to interpretaion and is difficult to prove	Dec 10, 2012 12:03 PM
6	case law (tulley) has shown that this can be used against an AA and puts doubt in our minds so no formal notice will be issued.	Dec 3, 2012 2:15 PM
7	It can be difficult to ascertain, or challenge the statement, that an obstruction is for the main purpose of deterring access. For example, a locked gate may be cited as the main purpose for containing stock or preventing illegal vehicle access. The side effect is to stop access whatever its main intention. So it can be very difficult to progress negotiations in these cases.	Nov 27, 2012 5:04 PM
8	what happens if actions which affect access were in place well before LRA came into force? eg. locked gate across track.	Nov 23, 2012 3:29 PM
9	Yes, a lot of land managers now realise that as long as they say there is another reason for locking a gate then it's fine to do so. What about gates and signs from pre-2003.	Nov 23, 2012 2:31 PM
10	A land owner has only to claim that a gate is locked to stop flytipping and there is little that the Access Authority can do to have the gate unlocked even if it is aware that there is little problem locally with flytipping.	Nov 22, 2012 3:32 PM
11	It is very difficult to demonstrate the 'main purpose' rather than the authority having to prove this it would be helpful if the authority believes this they could take action to remedy the situation leaving the party involved to demonstrate the main purpose via an appeal.	Nov 19, 2012 12:54 PM
12	Needs spelled out as there is currently too much room for different interpretation	Nov 9, 2012 2:36 PM
13	It is clear what this means, but perhaps the court actions that have helped to firm up what this means needs to be condensed into revised guidance to access authorities.	Nov 9, 2012 9:48 AM
14	Either clarification or the wording totally revised	Nov 7, 2012 3:54 PM

**Page 2, Q7. Section 18, Core paths plan: further procedure
Is amendment required to clarify the process of resolving objections?**

1	Yes.	Dec 12, 2012 5:18 PM
2	There should be clarification as to whether access authorities can make any changes to the Plan in order to resolve objections, and any limitations to the circumstances in which such changes should be made. It may be sufficient to include this in guidance rather than amend the Act.	Dec 12, 2012 1:37 PM
3	We had no issues resolving objections but know that many later AAs had to change their procedures with Reporters unit and this lack of consistency comes from lack of clarity.	Dec 3, 2012 2:15 PM
4	the Guidance could reflect the process of resolving objections better - for example the role and responsibilities of the Directorate of Planning and Environmental Appeals, and how this interacts with that of access authority. Also the process of resolving objections may result in further modification to the draft plan - however there is no mechanism by which they may be re-consulted upon. For example, a land owner might object to a path, the access authority might remove it from the plan, but those supporting the path inclusion in the first place e.g. the community don't have an opportunity to come back on it.	Nov 27, 2012 5:04 PM
5	minor Plan amendments(re-routing core path of same length/ surface type, etc) should be allowed by LA without having to submit plan to Reporter and public inquiry process.	Nov 23, 2012 3:29 PM
6	Yes, although it is a little late for the main process, but will help with future reviews.	Nov 23, 2012 2:31 PM
7	As an authority we have not had sufficient staff resources to negotiate with every one of the 200+ objectors and where we have tried to do this it has not proven worthwhile. We have conducted a mini consultation to establish if changes proposed to the plan to resolve some of the objections will do so or whether they in turn create new objections. We were never clear if this was required or not although the advice from Perth & Kinross was that the Reporter had asked them to carry out additional consultation and we had wanted to avoid this.	Nov 22, 2012 3:32 PM
8	Clarity of what is expected in relation to re consulting should an objection solution require amendment or removal of part or all of a route.	Nov 20, 2012 5:01 PM
9	This could be clearer to the effect that only the Minister can modify the Plan where an objection is not withdrawn. (S18.3).	Nov 19, 2012 12:54 PM
10	Needs to include how to deal with modifications as part of the formal process	Nov 9, 2012 2:36 PM
11	No. The law seems fairly clear on this point, but perhaps the interpretation that different organisations are putting on it needs to be clarified. Perhaps a meeting with a selection of bodies that have been involved to put across their different viewpoints and then the results included in that amended guidance.	Nov 9, 2012 9:48 AM
12	Many LA's simply removed paths from the CPP when they couldn't resolve objections. Local people felt that the landowner still had the ultimate say despite locals being heavily consulted on where they already take access or where they would like it to be improved.	Nov 8, 2012 12:17 PM
13	see earlier answer	Nov 7, 2012 2:33 PM

**Page 2, Q8. Section 20: Review and amendment of core paths plan
Is amendment required to clarify process of reviewing and amending a core paths plan?**

1	There are no timescales in the review process which means some Core Path Plans may never get reviewed especially in uncertain economic times.	Dec 13, 2012 12:55 PM
2	No amendment, but maybe clarification. It is currently classic gobble-de-gook!	Dec 12, 2012 5:18 PM
3	The final word of subsection (1)(a) should be amended from 'and' to 'or'. It has been suggested that the current wording means that reviews can only take place on instruction from Ministers. Access Authorities should have the discretion to review as necessary. Otherwise, the process is clear from the legislation and does not require amendments.	Dec 12, 2012 1:37 PM
4	They just need proper implementation - often sitting on shelves gathering dust!	Dec 10, 2012 2:11 PM
5	There has been a degree of misunderstanding and a varying approaches taken to this in different access authority areas	Dec 10, 2012 11:27 AM
6	See previous response	Dec 10, 2012 10:49 AM
7	mayb ethrough guidance and not the act. I'm not really sure.	Dec 3, 2012 2:15 PM
8	Section 20 (7) refers to amendments to the plan. Authorities should be able to consult on additions or removals of individual paths from the plan without triggering a wholesale review of the plan itself which may result in opening up consultation on paths that have already been incorporated subject to due process.	Nov 27, 2012 5:04 PM
9	Yes, there is very little information in the guidance about this. Should this be something that is done regularly as paths are diverted, added or deleted, or should this all wait for the plan to be reviewed?	Nov 23, 2012 2:31 PM
10	I suggest that since the Core Paths Plan will generally be Statutory Guidance for the Local Plan then the two should be reviewed at the same time ie at least every five years.	Nov 22, 2012 3:32 PM
11	Clarity of what is considered a minor amendment of a core path and process required and when and what form of consultation is expected should a more significant change to a route be required?	Nov 20, 2012 5:01 PM
12	Several LA's have tested a process for amendment, which seems to work and can be adopted. The link to the review of Local Development Plans needs to be clearer, as the processes I understand to be different. It seems less complex for most LA's to review CCP and LDR separately.	Nov 19, 2012 10:24 AM
13	Resolve drafting errors in gramar	Nov 9, 2012 2:36 PM
14	It is possible to never review a core paths plan. there is no legal timescale set and realisitcally an ongoing process akin to the English definitive map may actually be more sensible. However there needs to be equality in how core paths are added, diverted and deleted form the plan. At present there are differing processes with differing timescales and an inbuilt inequality. this needs resolved.	Nov 9, 2012 9:48 AM
15	see earlier answer	Nov 7, 2012 2:33 PM

Page 2, Q9. Section 20: Review and amendment of core paths plan

Do you think there is a need to remove the differences in procedure between a route addition [sub section(6)] and a deletion or diversion [ss(2)]?

1	It is currently too easy to remove a Core Path. It should be more difficult to remove a path than simply "where they consider that a core path should be closed"	Dec 13, 2012 12:55 PM
2	Diversions in particular should be a routine matter, which should be at the discretion of access authorities.	Dec 12, 2012 1:37 PM
3	It would appear superflous at present as both appear to require an amended plan after a review. It is possible that a diversion could be adjusted on the plan in between full reviews- which could be useful.	Dec 10, 2012 1:27 PM
4	seems to make sense. More clear powers to the AA the better.	Dec 3, 2012 2:15 PM
5	Yes the procedures for both should be streamlined and equitable. However diversion and deletions should be treated differently - deletion should be subject to consultation, whereas diversions i.e moving the line of a route within a reasonable distance and with no material affect, should be able to be expedited quickly.	Nov 27, 2012 5:04 PM
6	possibly to consult only on that particular proposed addition, and not on the whole Plan over again.	Nov 23, 2012 3:29 PM
7	Yse, they should all go through the same process. Clarity is needed in the guidance as to what constitutes a re-route of a path. Can access authorities move the lines on a map a bit to make the maps more accurate, reflect erosion, etc?	Nov 23, 2012 2:31 PM
8	In PKC experience deletions and diversions are just as controversial as additions and interested parties would like the ability to object in all cases.	Nov 19, 2012 12:54 PM
9	Make all a 'fast track' process	Nov 9, 2012 2:36 PM
10	See Question 8 above	Nov 9, 2012 9:48 AM
11	see earlier answer	Nov 7, 2012 2:33 PM

Page 2, Q10. Section 23: Ploughing etc

Do you think the act would benefit from clarification of the meaning and scope of 'etc'?

1	No the clarification is best in the guidance. If you don't ask this anywhere else, then needs to be stronger links between the guidance and the Act. Access authorities following the guidance rather than the absolute letter of the Act should be ok. In other words, following guidance should be mandatory and part of our duty.	Dec 12, 2012 5:18 PM
2	Disturbance of a core path is much more likely by other means than ploughing. If this section is truly about the disturbance of the path surface then it should be re-titled and further clarified.	Dec 10, 2012 1:27 PM
3	It has been suggested that this could include where a path has to be resurfaced, however the timescale of 14 days may not be appropriate if this is to include works that would be considered as maintenance items	Dec 10, 2012 12:03 PM
4	see previous response	Dec 10, 2012 10:49 AM
5	fully agree	Dec 3, 2012 2:15 PM
6	This section would be better entitled "land management operations", rather than "ploughing etc". to clarify the broad scope of activities that might disturb the path surface i.e. not just agricultural but forestry and estate management operations.	Nov 27, 2012 5:04 PM
7	I think it is fairly clear.	Nov 23, 2012 2:31 PM
8	The scope needs to explicitly state Tree felling, Construction work or damage caused by vehicles i.e. timber extraction.	Nov 22, 2012 3:32 PM
9	Does this cover forestry operations and damage by livestock?	Nov 13, 2012 10:21 AM
10	Should include forestry operations	Nov 9, 2012 2:36 PM
11	No. It will be impossible to cover all potential 'etc.' situations so it is better to have this wording and then examples in the guidance and accompanying notes to the Act.	Nov 9, 2012 9:48 AM

Page 2, Q11. Section 24: Rangers**Do you think there is a need for the addition of 'Access Officers' in the title and at each occurrence?**

1	No, but the term ranger needs to be changed to access authority officer, or something like that.	Dec 12, 2012 5:18 PM
2	In many authorities access officers perform the functions described in this section. It would be beneficial for access officers to have the powers of entry under sub section (3). It may be better to refer to 'person appointed to perform the functions under (2)', rather than refer to specific job titles - access functions in some authorities are performed by 'planners' etc. What matters is the role the person performs, not what they are called.	Dec 12, 2012 1:37 PM
3	Absolutely, as Access Officers the ones usually involved and rangers are often unwillingly to be involved in confrontation cases. It has often been taken that this actually meant Access Officers, and that it wasn't stated at the time (pre-2003) as few were in post.	Dec 10, 2012 1:27 PM
4	see previous response	Dec 10, 2012 10:49 AM
5	I think definitions are clear enough.	Dec 3, 2012 2:15 PM
6	As it stands rangers (and even members of the public) appear to have more rights to enter land than access officers which is anomalous. AO are required to give 'reasonable notice' for example if they want to make a site visit to look at a locked gate. This is an impediment to efficient day-to-day business.	Nov 27, 2012 5:04 PM
7	Many LA's have access officers but not rangers, so they are first contact for public re. access.	Nov 23, 2012 3:29 PM
8	Yes, as previously stated. It needs to include staff appointed by the access authority, not just access officers and rangers.	Nov 23, 2012 2:31 PM
9	Argyll & Bute Council has no Ranger Service and although my Legal Services advice is that a memo could be issued to make an Access Officer a Ranger for the purpose of Section 24 this could be open to challenge.	Nov 22, 2012 3:32 PM
10	This would clarify authority/notification required if investigating an issue on private land.	Nov 20, 2012 5:01 PM
11	Suggest it would be helpful to replace the word 'Ranger' with 'Designated Officer' (unspecific to job titles).	Nov 19, 2012 12:54 PM
12	It would be useful if in 24(1) local authorities MUST (rather than may!) appoint Access Officers ...	Nov 13, 2012 10:21 AM
13	Rangers are more than just promoting soac, access officer and ranger are two very different jobs. would be unfair to access officers and rangers to give them both the same title. each local authority has an access officer with which the rangers help.	Nov 11, 2012 11:27 AM
14	Job titles can change. What is needed is for each access authority to define who in it's organisation has the powers described in this section not.	Nov 9, 2012 9:48 AM

Page 2, Q12. Section 25: Local Access Forums
Should there be a new subsection to recognise NAF?

1	But only if NAF can serve to help LAFs work more effectively and share knowledge and good practice better	Dec 10, 2012 11:27 AM
2	It is not essential but it would seem to make sense and maybe act as the stimulus to make the NAF more accountable and relevant.	Dec 3, 2012 2:15 PM
3	The NAF isn't a statutory body	Nov 27, 2012 5:04 PM
4	many local access forums are merely in place because of the act - they do not fundamentally carry out a role that assists access officers / local authorities in their duties.	Nov 26, 2012 3:33 PM
5	Define functions of NAF e.g. to advise Scot Government on policy/ strategy re. access which are of national significance.	Nov 23, 2012 3:29 PM
6	No.	Nov 23, 2012 2:31 PM
7	This would be helpful as NAF should provide national guidance and have a role in networking with LAFs.	Nov 19, 2012 12:54 PM
8	There guidance etc should be incorporated into the review.	Nov 13, 2012 10:21 AM
9	Only if NAF becomes statutory	Nov 9, 2012 2:36 PM
10	I'm not convinced the NAF is switched on to methods of changing behaviour, communication tactics and broader issues that are faced dau to day in local authorities. There's no formal relationship between LAF s and NAF... perhaps there should be or just get rid of NAF.	Nov 9, 2012 10:08 AM
11	Does seem a bizzarre oversight given the tremendous work they have done.	Nov 9, 2012 9:48 AM

**Page 2, Q13. Section 28: Judicial determination of existence and extent of access rights and rights of way
Do you think there is a need for the addition of a new sub-section "(9) the decision of the Sheriff is final"? It
has been suggested that this could streamline the legal process, and equate with s61(7)(...**

1	Yes but this also would need to refer to section 14 not just section 28. See earlier answer.	Dec 10, 2012 1:27 PM
2	unlikely to be workable in reality	Dec 10, 2012 10:49 AM
3	I'm unsure	Dec 3, 2012 2:15 PM
4	No comment except that clarification is required on what, if any, the right of appeal for both Section 28 and Section 22 Path Orders.	Nov 27, 2012 5:04 PM
5	to make language in Act more consistent.	Nov 23, 2012 3:29 PM
6	There have been very few cases, but rather worrying interpretations. I think there should always be a right of appeal.	Nov 23, 2012 2:31 PM
7	Although there may be higher legal costs there should be an opportunity for anyone to challenge the Sherriff's decision. Finally would it be worthwhile to explore changing the act to require anyone seeking a Section 28 declarator to participate in a mediation process prior to approaching the sherrif for a determination. This might keep costs down for all parties and could avoid entering into expensive legal actions at too early a stage.	Nov 22, 2012 3:32 PM
8	Would help to keep legal costs to Council's to a minimum	Nov 9, 2012 2:36 PM
9	Interesting, but as we have seen the Sheriff is not always right! Perhaps legal opinion is needed to clarify why this difference in the secitons of the Act exists and, if appropriate, to harmonise them.	Nov 9, 2012 9:48 AM