

# Natural England's Coastal Access Frequently Asked Questions (FAQs)

## NOTES

These FAQs deal with common questions associated with Natural England's role in implementing the Coastal Access provisions of the Marine and Coastal Access Act 2009.

If you have further questions, please contact the Natural England enquiry service, <http://www.naturalengland.org.uk/advice/enquiryservice/default.aspx>  
Tel: 0845 600 3078.

If you have any questions regarding the content of the Act, please check <http://www.defra.gov.uk/rural/countryside/coastaccess.htm> in the first instance.

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## 1. Current position

### 1.1 What is the current position?

The Marine and Coastal Access Act 2009 received Royal Assent on 12<sup>th</sup> November 2009. Part 9, which deals with Coastal Access, came into force on 12<sup>th</sup> January 2010. A detailed process of local consultation, proposals by Natural England for each stretch of coast, and consideration of its proposals by the Secretary of State will follow before the new access rights take effect in stages around the English coast.

After full public consultation on its proposals for an order under Section 3A of the Countryside & Rights Way Act (CROW) to will give effect to the new coastal access rights, and make relevant changes to CROW, this Order (The Access to the Countryside (Coastal Margin) (England) Order 2010 (SI 2010 No. 558)) has now been approved by both Houses of Parliament, and will come into force on the 6<sup>th</sup> April 2010. A copy of the Order is available on Defra's website.

Natural England has a duty under section 298 of the 2009 Act to produce a Scheme setting out its approach to implementing the new rights. Following a public consultation, the [Scheme](#) was amended and updated in the light of the responses received. As the Act requires it was approved by the Secretary of State for the Environment, Food and Rural Affairs on 23<sup>rd</sup> March 2010, and laid in Parliament on 25<sup>th</sup> March.

On 22<sup>nd</sup> March 2010, Defra opened a public consultation on proposals for regulations regarding representations and objections about our access proposals for each stretch of coast. The proposals are published on Defra's website.

## **2. Natural England's role and responsibilities in relation to coastal access**

### **2.1 What is Natural England's role?**

The 2009 Act places a duty on the Secretary of State and Natural England to secure a long distance walking trail around the open coast of England, together with a margin of accessible land for people to enjoy. As part of this process Natural England will also propose any necessary restrictions or exclusions it considers necessary on the new access rights over this land.

Natural England will do this by preparing a series of reports recommending a coastal route to the Secretary of State, each relating to a different stretch of the English coast. Our approach to the preparation of these reports (including detailed local consultation) must be in accordance with the [Coastal Access Scheme](#).

### **2.2 What is the purpose of Natural England's Scheme?**

The Scheme is the methodology for the process of local implementation of the new rights. It has been approved by the Secretary of State and Natural England must therefore act in accordance with it.

The Scheme sets out in detail the approach that Natural England will take and the criteria that will guide its recommendations to the Secretary of State for each stretch of coast. It also explains how Natural England will establish and manage the new access once the Secretary of State has confirmed its recommendations for a stretch of coast. The Scheme has been developed in close consultation with key interests, and reflects extensive fieldwork and testing around the coast in order to get the fine detail right.

## **3. Environmental Protection and Enhancement**

### **3.1 How will key sites and species be protected?**

One of the core principles of the Coastal Access programme is to provide a wildlife and landscape corridor where the public will have rights that provide more opportunities to enjoy the natural and cultural environment of the coast and to understand it better, whilst ensuring appropriate protection and enhancement of the coastal environment. This principle is in keeping with Natural England's statutory purpose to conserve, enhance and manage the natural environment for the benefit of present and future generations.

We will avoid any harmful impacts on key features through the sensitive way in which the trail is aligned and managed. In particular, on Natura 2000 sites we will ensure the protection of the relevant features in accordance with Article 6.3 of the Habitats Directive, using a rigorous assessment process and implementing measures that will ensure no adverse effect. Natural England has a statutory duty to carry out this work. The documents will be made public and the process will involve stakeholders. The Scheme explains how we will do this.

The embedding of strategic environmental assessment (SEA) as an integral part of the alignment process will also ensure best practice in shaping and informing our plans and proposals for the new access rights. We will apply SEA where our proposals would potentially affect European wildlife sites and protected species covered by the Wildlife and

Countryside Act 1981 or under Schedules 2 and 5 of the Conservation of Habitats and Species Regulations 2010.

### **3.2 Will there be environmental enhancement as well as protection?**

Yes. We will build on the important results we already achieve in partnership with coastal land managers through our agri-environment programmes. We will aim to ensure that further environmental enhancement is secured within the coastal corridor, both for its own sake and to add to the quality of people's experience and enjoyment of the coast, alongside our local alignment of the new access rights.

## **4. Coastal Access Audits**

### **4.1 What were the Coastal Access Audits?**

Natural England worked with 53 coastal access authorities to complete a desk based audit of 4,422km (2,748 miles) of English coastline. The audit provides a best estimate of the extent to which there is currently a satisfactory, legally-secure coastal path. The results showed that a third of the English coast lacks such a path, and that these 'gaps' regularly interrupt the sections with a good path. The average length of secure, satisfactory path before reaching such an interruption is less than two miles.

In addition, the audit showed that as things stand, a further 13% of existing public rights of way around the coast would be lost to erosion over the next 20 years. The new coastal trail will be able to 'roll back' automatically in such situations.

The audit work was carried out to inform our implementation planning and resource estimates. It will carry no weight when we start the formal alignment process, which will involve full consultation with landowners, land managers and other interested parties.

### **4.2 Is the audit information available?**

The findings from the audit have been published on our website in a report ["Coastal Access: An audit of coastal paths in England 2008-09"](#).

## **5. Implementation**

### **5.1 When and where will coastal access begin?**

Natural England will work with Dorset County Council on delivering the first new and improved coastal access under the Act on a 20km section of coast at Weymouth Bay, to be available in time for the Olympic sailing events there in 2012.

Work will start on five further stretches of the English coastline during 2011. We will discuss with access authorities the basis for dividing up the coast they cover, and the sequence in which each stretch should be implemented. We will aim to ensure that this enables the establishment and commencement of rights to take place in a way that will facilitate public understanding and enjoyment of them, for example by doing so on stretches of coast between coastal towns.

### **5.2 How long will it take to establish the new coastal access rights?**

We have said that we would like to complete the establishment of the continuous coastal trail and associated spreading room for the whole of the English coast within 10 years of our Scheme being approved by the Secretary of State and the relevant legal powers being available to us. This will clearly be dependent on having the necessary funding available.

### **5.3 How much will it cost to implement coastal access?**

We estimate that it will cost £50 million over a 10 year period to implement Coastal Access. This estimate includes the initial establishment costs of the trail, the cost of maintaining new access created during the 10 year period, costs incurred by local authorities in helping Natural England deliver Coastal Access and the cost of delivering improvements for other users, such as horse-riders. We will continue to keep this estimate under review as we progress.

### **5.4 What is the approach to funding maintenance of the coastal trail?**

We will put in place a transparent approach to funding the long-term management and maintenance of the coastal trail, including existing coastal National Trails, as the coastal trail is established.

The standards of maintenance and management for each stretch of the coastal trail will be defined as part of the process for developing the proposals that we will put to the Secretary of State for approval.

We do not believe that indicating a single flat rate of grant aid that we will apply to the maintenance costs of the coastal trail will enable us to properly reflect the varying requirements that will exist around the coast, or ensure that we have the flexibility to respond to future needs.

Natural England will continue to provide a significant proportion of the funding for long-term management and maintenance needs of the coastal trail, subject to the agreed standards. Funding from other local sources will also be important, recognising the many local benefits that will be derived from coastal access.

Where the trail follows existing public rights of way, highway authorities will remain legally responsible for their maintenance.

### **5.5 Who will be consulted?**

When starting work on a stretch of coast, we will hold strategic discussions with key local interests including any relevant local access forums, local authorities, and representatives of user and land management interests. When undertaking the detailed alignment process, we will 'walk the course' with occupiers of affected land wherever they are willing to do this, to get their views about the best position for the trail and hear any concerns about access affecting their own use of the land. Under the Act, Natural England must aim to strike a fair balance between the interests of the public in having rights of access over coastal land, and the interests of owners and occupiers of land over which any new rights would be conferred.

### **5.6 Who is going to do the work, Natural England or Access authorities?**

Work will be undertaken in partnership between Natural England and local access authorities. Section 3.2 of the Scheme highlights the importance of this relationship. Access authorities will manage much of the detailed implementation on the ground and we will provide funding to them to do this.

### **5.7 How will you work with Local Access Forums (LAFs) during the implementation process?**

We acknowledge the important strategic role that local access forums have to play during rollout. We will consult the relevant local access forum(s) when we start work on each stretch of the coast, and again when we publish our draft recommendations for the stretch. On publication of our final report, we will invite representation from the local access forums on the affected stretch, as required by law. Representations from the relevant local access

forums will be sent to the Secretary of State for consideration alongside our recommendations.

### **5.8 How will Natural England make recommendations for each section of coast?**

After taking local views into account, we will publish draft proposals and invite comments on them. We may change aspects of our proposals as a result. We will then publish our final report and invite representations from interested parties. Anyone will be able to make a representation to us on the report. In addition, owners and occupiers of affected land will be able to make a formal objection regarding our final report, on grounds set out in the Act.

When the period for representations is over, we will prepare a submission to the Secretary of State. This will include our final report, any objections made by owners and occupiers, any representations from the access authority, the local access forum, English Heritage, the Environment Agency, and bodies prescribed for the purpose by regulations, together with a summary of all the other representations we have received. We cannot change our final report in response to the objections and representations, but we may add comments. Our comments might recommend the Secretary of State to make modifications to the proposals in response to a particular objection or representation, or they might explain why we do not think that any modification is necessary.

### **5.9 How will objections be considered?**

There is provision for owners and occupiers of affected land to make objections to our proposals on grounds set out in the Act. Admissible objections will be considered by an appointed person, which Government has said that this will be an inspector from the Planning Inspectorate. Schedule 19 of the Act sets out the procedures under which the appointed person will consider each objection, and then make recommendations about it to the Secretary of State.

On 22<sup>nd</sup> March 2010, Defra opened a public consultation on proposals for regulations regarding representations and objections about our access proposals for each stretch of coast. The proposals are published on Defra's website.

We will work closely with occupiers at the alignment stage to avoid the necessity for objections, which we see as very much a last resort mechanism.

### **5.10 How will the implementation process affect existing proposals to improve access to the coast?**

Our proposals will incorporate existing satisfactory access arrangements along the coast where appropriate, and will take full account of existing proposals for improvement. We will give careful consideration to how branding of the coastal trail and spreading room works in relation to existing, more local forms of branding.

## **6. Alignment of the Coastal Trail**

### **6.1 How will affected land be identified?**

The alignment process will be conducted in accordance with the Scheme approved by the Secretary of State. It will involve mapping the line of the trail, and identification – normally in words but where necessary on a map – of the related spreading room. The local access authority will be closely involved. Natural England will make the final decisions on what to propose to the Secretary of State.

## **6.2 Will Natural England be able to realign the trail later?**

Yes. Natural England may from time to time propose to the Secretary of State changes to the trail and the related spreading room, in response to changes such as new development or managed realignment of coastal defences.

## **6.3 Doesn't the coast erode? Won't the path disappear?**

Some sections of coastline are eroding rapidly, year on year. The Act allows us for the first time to identify relevant sections of the trail as automatically "rolling back" with any future erosion until it reaches a point where it needs to be realigned. Examples of how this works are illustrated in the Scheme.

## **6.4 What influence will the new right have on being able to develop land?**

Future development of land is not restricted under the legislation. The new rights are about access, not development control. When considering future developments (as the official guidance already requires) planning authorities and the Secretary of State should give careful consideration to maintaining or improving public access to the coast. Wherever possible this should be on the seaward side of any new development.

## **6.5 What will happen when coastal access meets an existing development?**

The route around the open coast will normally be continuous. The local alignment approach will make it possible to provide detours in the most appropriate way around obstructions such as big industrial sites or secure ports. For land uses such as golf courses or caravan sites, we will work with the land owners or operators to agree a sensible way forward which allows the continuation of access around the coast, preferably on the seaward side.

## **6.6 What about estuaries?**

The Act imposes no obligation on Natural England to continue the trail around an estuary – but we have power to do so, and will always consider whether to use it. We may adopt as the crossing point the first existing bridge or tunnel with pedestrian public access, or a convenient ferry downstream of that point. Equally the Act allows us to stop the trail short of the first bridge or tunnel at a specified point between that and the 'seaward limit'. The alignment criteria that we will use in reaching our conclusions for specific estuaries are explained in section 10.2 of our scheme and chapter 11 provides some illustrative examples.

## **6.7 What impact will the new rights have on coastal farming?**

Chapter 8 of the Scheme sets out how we will take account of a range of agricultural land uses and management issues in reaching our view as to how the coastal access rights should be put in place. For example, where a cliff-top field is cropped, the access corridor would typically run along the cliff top and would not affect the rest of the field. Arable crops will usually stop well short of the cliff edge. Whilst the trail may pass across arable land, there is no provision for spreading room on it.

We will discuss with the farmer any special requirements, for example in relation to dog control around food crops. The Order states that dogs will have to be kept on short leads around livestock, and under effective control elsewhere. (Effective control is explained in question 7.6).

## **6.8 What about busy roads?**

Wherever there is a reasonable alternative, Natural England will avoid aligning the trail along a road used regularly by motor vehicles. The position of road crossings that prove necessary will be chosen with safety and convenience in mind.

### **6.9 What about existing rights of way or highways?**

These rights will continue to exist and existing legal responsibilities for their maintenance will be unchanged. We will be able to 'adopt' such routes as part of the trail. Where they are threatened by erosion, it will be possible to provide for the new route to roll back with the eroding coastline. The new "coastal access" rights provided under section 2(1) of CROW would come into effect along such a new route as and when it moves off the line of the existing right of way in response to erosion.

### **6.10 What new provision will be made to reach the coast from inland?**

Often there is good access to the coast from inland and we do not see this as the main priority for improvement. The trail will where practical link up with walking routes leading to and from the coast, and with public transport links and existing car-parks.

### **6.11 Will there be new access rights over salt marshes and flats?**

Not normally. Many areas of this type are unsuitable for public access, so the coastal trail will not normally be aligned over them, and we will typically use directions to exclude them from the 'spreading room'. The Order provides a specific power for us to exclude access from salt marsh and flats that we consider unsuitable for public access..

Section 7.15 of the Scheme sets out our approach to the use of this power and the criteria we will follow. We will ask local interests to help us to identify any areas that they consider "suitable" or "unsuitable" in terms of the criteria, including areas that are already used by the public in this way. Even where access to salt marsh or flat is considered "suitable" in these terms, it may be necessary to exclude access on other grounds such as nature conservation.

### **6.12 What happens to land already subject to entry charges?**

Where businesses wish to charge visitors for goods, services or facilities, the coastal access rights will not prevent it. This includes for example charges for parking or deck-chair hire, entry to attractions such as theme parks, historic buildings or formal gardens, and permits for activities not covered under the access rights. However, businesses will not be able to charge the general public to enter land where the coastal access rights apply, for activities that would be provided by right under the Act.

Most managed visitor attractions which the public pay to enter will not be affected by the new coastal access arrangements, but for cases where they may be, section 8.16 of our Scheme sets out how we will aim to prevent the businesses suffering significant loss of income from the introduction of coastal access rights. If, on the basis of the evidence available at the time, we think significant loss of income is likely, we will include specific recommendations to prevent this happening.

### **6.13 Will islands be included in the new right?**

Islands will be included within the scope of the coastal access powers if it is possible to walk to them from the mainland or another accessible island – including over a causeway at low tide. The Secretary of State may include other islands by means of an Order if he is satisfied that the coastline of that island is long enough to provide a long-distance walk. The Isle of Wight will be included in this way.

### **6.14 Will golf courses be included?**

If it is not viable to align the trail to the seaward of a coastal golf course, it may be aligned through the course instead along an access strip. Natural England has discussed its approach fully with representatives from the golf 'industry' and any route will be chosen to balance business interests with public interests. Natural England will consult closely with the course manager when considering the best alignment. Where we recommend a route

through a golf course, there will be no new access to the playing areas of the course other than to the access strip along which the trail passes.

#### **6.15 Will caravan parks be subject to the new right?**

If it is not viable to align the trail to the seaward of a caravan site or camp site, it may be aligned through the site instead along an access strip. The route will be chosen to balance business interests with public interests and Natural England will consult closely with the site manager when considering the best alignment. Where we recommend a route through a caravan or camping site, there will be no new access to the site other than to the access strip along which the trail passes..

#### **6.16 What is the difference between Natural England's definitions of a stretch and a section of coast?**

**Stretch** is the term the Scheme uses to describe the piece of coastline covered by a coastal access report submitted to the Secretary of State. **Section** is a term we sometimes use to describe a specific part of a stretch - for example between one field boundary and the next.

### **7. Managing Coastal Access Rights**

#### **7.1 How will the coastal access corridor be marked on the ground?**

We will use visual indicators on the ground where necessary to show the route of the trail. Carefully targeted signs and access infrastructure will enhance the overall convenience of the trail. They should meet the same quality standards as on other national trails, so helping people to enjoy the trail with confidence and certainty.

#### **7.2 How will this new right of access be managed at a local level?**

We envisage a 'light touch' approach to managing access at a local level. Necessary establishment works such as signs, gates, steps, bridges, or drainage will normally be undertaken by the access authority, but funded by Natural England. They will enhance the overall convenience of the trail once the route has been confirmed. They should meet the same quality standards as on other National Trails.

Where there is a need for further intervention, we will always consider first whether informal access management such as signs or other information will meet the need. Section 6.5 of the Scheme explains more about common informal management techniques. Where we conclude that informal management would be inadequate, or where it would place an unreasonable cost on the affected land manager, Natural England will have powers to restrict or exclude specific activities locally. There will also be powers to divert the trail temporarily when the need arises, for example to enable works to take place.

#### **7.3 When would alternative trail routes be made available?**

The Act provides powers to provide alternative routes that would be available at times when access to the ordinary route is excluded or to provide an optional alternative route for the public to use when the ordinary route might reasonably be regarded as unsuitable for use because of seasonal flooding, erosion, or other geomorphologic processes. Suitable signing may be needed to indicate the situation on the ground on a case by case basis.

#### **7.4 Will Natural England operate an exclusions and restrictions regime, as under CROW?**

Yes - but it will operate differently. Local exclusions and restrictions that are necessary from the outset, and any powers we think are needed to make temporary diversions, will form part of our initial proposals to the Secretary of State. Thereafter, it will be possible for us to put in place additional exclusions, restrictions and temporary diversions if circumstances

change. Once a coastal access report has been confirmed, any person with a legal interest in the land may apply to Natural England for a direction to restrict or exclude access on certain grounds. Natural England may also give a direction without an application being received.

The Section 3A Order amends CROW so that the discretionary restriction powers that operate on open country and registered common land (under CROW sections 22 and 23 - the 28 day power and the special dog bans on grouse moors and lambing enclosures) will not apply to land with coastal access rights.

### **7.5 What about existing access land on the coast?**

Where land which already has CROW access rights is included as spreading room on the coast, or as part of the coastal trail, the coastal regime rather than the CROW regime will apply.

On “Section 15 land” (land that prior to CROW was already subject to the types of access right listed in CROW section 15), these pre-existing rights will continue to apply even where the land is coastal. Such rights often include higher rights, e.g. to ride a horse.

### **7.6 Will people with dogs be allowed to use the new coastal trail?**

Yes. Normally people will be allowed to bring dogs provided they keep them under ‘effective control’ at all times. ‘Effective control’ means the person must:

- keep the dog on a lead; or
- keep it within sight, remain aware of its actions and have reason to be confident that the dog will return reliably and promptly to them on command; and
- in either case, keep the dog on land with coastal access rights or other land to which the person has a right of access.

As on other land with access rights under Part 1 of CROW, a person with a dog must keep it on a short lead in the vicinity of livestock. The purpose of this provision is to prevent dogs from approaching livestock.

Where there is a need for further controls in particular places, for example for land management or wildlife reasons, we may give directions to restrict or exclude access for people with dogs. We will aim to avoid excluding access to the trail in this way.

### **7.7 What is the relationship between coastal access and Shoreline Management Plans?**

A Shoreline Management Plan (SMP) is a large-scale assessment of the risks associated with coastal processes and helps reduce these risks to people and the developed, historic and natural environments. SMPs should make reference to the coastal trail but the presence of the coastal trail will not influence the SMP. The coastal trail will respond to SMPs and to any changes in the coast line which result from implementation of the policies they contain.

### **7.8 Who is responsible for enforcing access should someone block the trail?**

People are not permitted to obstruct each others’ passage along the trail and we think it unlikely that they would wish to do so.

Should the trail become obstructed as a result of the actions of an owner or land manager, we or the access authority will approach them to discuss how best to address the problem.

Natural England and the access authority have powers to remove such obstructions in cases where we are unable to reach agreement for their removal by the owner or occupier.

### **7.9 If the new trail follows a different line from an existing coastal National Trail, will the existing National Trail lose its status?**

We will adopt the line of an existing coastal National Trail (NT) if it meets the criteria in the Scheme. Where the trail is aligned on a different route to the existing NT then we may recommend to the Secretary of State that the existing National Trail is changed to the new trail alignment. We will only do this where we think the new route would better meet the purpose for which the existing National Trail was designated. Any public rights of way along the existing route would remain in place.

## **8. Delivering Wider Opportunities**

### **8.1 Why doesn't the Act extend the new Coastal Access rights to horse riders and cyclists?**

The Act will enable more people to enjoy the coast on foot. The Government's view is that it would not be practicable on the coast to give the same right of access to horse riders or cyclists. Rather, it supports voluntary dedication of higher rights at the local level where this can be achieved. Our intention is to identify opportunities to provide local access improvements for horse-riders and cyclists, and support targeted implementation of these working with local partners, user groups and land owners. We are discussing our approach to this with the relevant local stakeholders and interests.

### **8.2 What steps is Natural England taking to ensure that the coastal trail is accessible for people with reduced mobility?**

Natural England will not fund structures on *new* sections of coastal trail, or within the coastal margin, that in themselves form barriers to people with reduced mobility. To avoid creating new obstructions, we will aim to use gaps to cross field boundaries where livestock control is not an issue, or install new gates rather than new stiles where livestock will be present.

In addition we will work with access authorities to ensure that targeted local opportunities are taken to make suitable sections of trail more accessible for people with reduced mobility, and to remove existing obstructions to their access, such as stiles. We will do this in close consultation with local representatives, and with due sensitivity for the historic environment and land management needs. We will seek the consent of owners and occupiers for such changes as required.

Section 4.3 of the Scheme sets out our approach to these issues in more detail.

## **9. Public Safety**

### **9.1 How will Natural England ensure public safety on the coastal Trail?**

Vast numbers of people currently visit the coast every year. Most people already understand that the coast can be a dangerous environment, and are aware of the obvious risks. Our key principle is that visitors should take primary responsibility for their own safety when visiting the coast and for the safety of any children or other people in their care, and should be able to decide for themselves the level of personal risk they wish to take.

We will assess the likely level of visitors' familiarity with and expectations of the risks on each section of the trail in deciding whether any specific safety measures are necessary. Our approach to risk management on the trail will be light touch, aiming to avoid any safety

measures that would be restrictive on public access or enjoyment, or that would conflict with land management or environmental objectives.

Section 4.2 of the Scheme sets out our approach to safety on the trail in more detail.

### **9.2 Will signs be used to warn people of any dangers?**

Natural England and the access authorities will have powers to place signs along the trail or on areas of spreading rock, warning of potential dangers. We would expect these to be used very sparingly, to warn people about dangers they could not reasonably anticipate, such as hidden entrances to abandoned mines, or unstable cliffs. No liability will be attached to Natural England or access authorities for failing to erect such signs, or to Natural England or the Secretary of State for the choice of route.

### **9.3 What is the effect of the rights on the occupier's liability?**

The Act creates a uniquely low level of occupiers' liability. Essentially the occupier cannot be sued for injury or damage unless he has acted intentionally or recklessly. The reduced liability will apply to both natural and non-natural features on land where access rights are newly introduced.