

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.

Contents	Pages
1. Current position	1
2. Natural England's role and responsibilities	1-2
3. Environmental Protection and Enhancement	2
4. Coastal Access Audits	3
5. Implementation	3-5
6. Alignment of the Coastal Trail	5-7
7. Managing Coastal Access Rights	7-8
8. Delivering Wider Opportunities	8
9. Public Safety	8-9

1. Current position

1.1 What is the current position?

The Marine and Coastal Access Act 2009 received Royal Assent on 12th November 2009. Part 9, which deals with Coastal Access, comes into force on 12th 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.

Defra have completed a public consultation on their proposals for a "section 3A Order" that will give effect at that stage to the new rights. After analysis of the responses to the consultation a draft Order was laid before Parliament on 20th January 2010. The Order must be approved by both Houses before it can come into force. To view a copy of the draft order and consultation report see: <http://www.defra.gov.uk/rural/countryside/coastaccess.htm>

Natural England's public consultation on its [proposed Scheme](#) (which we must produce under section 298 of the Act) for implementing the new rights has now ended. We are currently considering comments we have ~~received~~received on the consultation version of our Coastal Access Scheme. Having done so, we will produce a final version of the Scheme and submit it to the Secretary of State for approval. We will publish the final Scheme and a Consultation Summary report following Secretary of State approval.

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

2.1 What is Natural England's role?

The 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 appropriate areas of 'spreading room' en route where people will be able to explore, rest or picnic. 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. Further details on how the trail and spreading room will be aligned and access rights will be managed are detailed in the [Consultation Version of our Scheme](#).

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

The Scheme is effectively the methodology for the process of local implementation of the new rights. It 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. 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.

2.3 How does the Consultation Version vary from previous versions?

The Consultation Version of the Scheme is a much fuller version than the Outline and Draft versions that were published previously to inform pre-legislative scrutiny and the passage of the Bill through Parliament. In particular, this version contains much more information about the management of the new access rights, drawing on and developing the detailed guidance set out in our Relevant Authority Guidance relating to the management of existing CROW access rights. The key changes are summarised at the start of each chapter.

2.4 When does the Scheme consultation end, and what happens then?

Public consultation on the proposed Scheme began on 13th November and ends at 6pm on 5th February 2010. We will then submit the finalised version to the Secretary of State for approval, as the Act requires. Implementation can only properly begin once this approval has been given.

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. We will ensure the protection of sensitive wildlife, heritage, landscape and geological features in accordance with the Habitats Regulations 1994, using a rigorous assessment process and implementing measures that will ensure no adverse effect. 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 Habitats Regulations.

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 programme. During the local alignment process, we will identify opportunities for further environmental enhancement within the coastal corridor, both for its own sake and in order to add to the quality of people's experience and enjoyment of the coastal environment.

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 an indication of the current extent of 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, some 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?

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

Natural England has also identified 5 other places where we will start delivering the new coastal access – Kent, Somerset, Norfolk, Cumbria & East Riding of Yorkshire. We will be working closely with the access authorities for each of these areas, and are discussing with them the arrangements for doing so.

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 through our grant in aid to do this.

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 funding to support the delivery of improvements for other users, such as horse-riders. We believe this is a robust estimate but we will continue to keep it under review and refine our estimates 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 How will implementation work in practice?

Before we start implementation we will divide the coast into stretches, each of which will be the subject of a report to the Secretary of State. We will discuss with Coastal Access Authorities the division of the coast and the sequence in which the stretches could be tackled. Once we start on a stretch of coast we estimate it will take between two and a half and four years to complete.

5.6 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.

5.7 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.

When the period for representations is over, we will prepare a submission to the Secretary of State. This will include our final report, and any representations from owners and occupiers, 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 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 representation, or they might explain why we do not think that any modification is necessary.

There is provision for owners and occupiers of affected land to make objections to our proposals on grounds set out in the Act. Objections will be considered by an appointed person - we expect this to be an inspector from the Planning Inspectorate. We will work closely with occupiers at the alignment stage to avoid the necessity for objections.

5.8 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 carefully consider issues about the branding of the national trail 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. It would often be impracticable for the trail to follow a fixed route in these places. The Act will allow us for the first time to identify relevant sections of trail - and the associated access rights – as automatically “rolling back” with any future erosion. Examples of this 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.

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 if that is preferable. It sets out criteria we must take into account in all of this.

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

Where for example a cliff-top field is intensively farmed, the access corridor would typically run along the seaward edge and would not affect the rest of the field. Arable production usually stops well short of the cliff. We will discuss with the farmer any special requirements, for example in relation to dog control around food crops. Defra's Section 3A Order consultation paper proposes that dogs will have to be kept on short leads around livestock, and under effective control elsewhere. The paper explains this concept of effective control in more detail.

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 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 rights would come into effect along such a new route as and when the existing right of way is taken by the erosion.

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

Often there is good, regular access to the coast from inland and we do not see this as the main priority for improvement. The trail will where practicable link up with routes leading to and from the coast, with public transport links and car-parks. We will consider contributing financially to the creation of 'new ways in' by access authorities, where there is a strong case to be made for this.

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

Not normally. Most areas of this type are unsuitable for open-air recreation, so the coastal trail will not normally be aligned over them, and we will typically use directions to exclude them from the default 'spreading room' seaward of the trail. Defra's Section 3A Order consultation paper proposes a specific power for us to give such directions.

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.

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. We will aim in our report to the Secretary of State for each section of coast to prevent coastal 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 are persuaded that 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, which has to be agreed by Parliament if he is satisfied that the coastline of that island is long enough to provide a long-distance walk. Government intends to include the Isle of Wight 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. Any part of the course used for play will be excepted unless it forms part of the trail itself. Natural England has discussed its approach fully with the golf 'industry' and will work closely with local clubs in considering the best alignment to use.

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. 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. Such sites will not themselves become spreading room: Defra propose that they should be excepted land in this respect.

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 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 informal access management will not meet the need, 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 restricted or when it might reasonably be regarded as unsuitable for use because of flooding, erosion, or other geomorphologic processes.

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

Yes - but it will operate differently. The local exclusions, restrictions, and powers to make temporary diversions that Natural England considers necessary will form part of its initial proposals to the Secretary of State. Thereafter, it will be possible for us to impose additional exclusions, restrictions and temporary diversions if circumstances change.

Defra's section 3A order consultation paper proposes 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 coastal access rights.

7.5 What about existing access land on the coast?

Where existing CROW access land 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.

Existing public rights of way will also continue in force.

7.6 Will 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 and subject to land management and wildlife needs.

Defra’s proposed Section 3A order consultation paper includes a more detailed description of how people will be expected to control their dogs “effectively” on the coast.

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 will discuss and agree 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 all?

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 limited mobility and people with pushchairs. To avoid creating obstructions to people who are less mobile, we will aim to use gaps to cross field boundaries where livestock control is not an issue, and 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 limited mobility users, and to remove existing obstructions to their access, such as stiles. We will do this in close consultation with representatives of limited mobility interests, and with due sensitivity for the historic environment. We will seek the consent of owners and occupiers for such changes as required. We will ensure that our proposals comply with any Disability Discrimination Act requirements.

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 visitor experience and expectation on each section of the trail in deciding what safety measures are necessary, if any. 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.

In discussion with national safety organisations we will consider the possibility of producing educational material to reinforce the need for people to be aware of the potential risks at the coast. This may be associated with a review of the Countryside Code.

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 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 the land.