

Making the most of **Coastal Access**

An introduction to the
Marine and Coastal Access Act



ramblers
at the heart of walking



**ACCESS &
CONSERVATION
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Natural England (NE) estimates that at least 34% of the coast has no legal or recognised access and a proportion of the remaining 66% does not provide continuity of access or a quality coastal experience (Ipsos Mori, 2006). Currently, about 50% of the foreshore is owned by the Crown Estates, whilst beaches are under a variety of ownerships including local authorities and the National Trust. Much of this access is often permissive or by de facto, a luxury which can and has been revoked on occasion. NE has also found that some stretches of existing coastal paths are closed or have fallen into the sea as a result of the natural changes which are occurring to our coastline. In other parts the feeling of confinement leaves the climber and walker wishing for a better quality of experience and a sense of freedom with the elements (Natural England, 2007).

The British Mountaineering Council (BMC) and the Ramblers campaigned hard to ensure that a permanent right of access to our coast was provided for through the Draft Marine Bill when it was first debated. The BMC and the Ramblers have repeatedly campaigned for the new access rights to extend from the mean low water mark to a point inland, and include areas such as beaches, the foreshore and cliffs.

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The Marine and Coastal Access Act

The Marine and Coastal Access Act received Royal Assent on 12th November 2009. The Government's vision is of "A coastal environment where rights to walk along the length of the English coast lie within a wildlife and landscape corridor that offers enjoyment, understanding of the natural environment and a high quality experience; and is managed sustainably in the context of a changing coastline".

The Marine and Coastal Access Act aims to improve public access to and enjoyment of the English coastline, providing secure and consistent rights for people to enjoy the coast with confidence and certainty. It will do this by making a coastal margin available for access around the coast of England. Within this margin people will be able to walk along the length of the English coast, and in addition will have access to suitable coastal land such as beaches, cliffs, rocks and dunes, for open-air recreation on foot.

What does the Act do?

The Secretary of State and NE have been given a new duty (the Coastal Access Duty) to provide this improved public access – the implementation of which will be led by NE. There are two key objectives outlined in the Act – NE will propose a series of long-distance routes around the coast of England (a coastal path), under the powers contained in the National Parks and Access to the Countryside Act 1949. They will develop a proposed route in consultation with local people, and local access authorities, and put this forward in a report to the Secretary of State. There are also powers under the 1949 Act to provide alternative routes or temporary routes for the path, at times when access to the ordinary route is unavailable.

The second objective is that in association with the route, a margin of land along the length of the English coast (a coastal margin) will be accessible for the purpose of open air recreation. The Act amends the Countryside and Rights of Way Act 2000 (the CROW Act) to allow for;

- land two metres either side of the line of the route;
- all land to the seaward of the route;
- and any of the classic coastal land types (including dunes and cliffs) to the landward side to be normally available to the public under the right of access contained in section 2(1) of the CROW Act.

Additional land to the landward side of the path may be included, to take the access land up to a suitable boundary (such as a fence or cliff) or other physical feature. NE will therefore consult widely on the implications of putting the route in a particular place and the extent of this margin of land (see the BMC report 'Access to the English Coast for Recreational Climbing; a study that identifies coastal climbing sites which may fall on the landward side of the route'). A copy of the report is included on the CD with the full volunteer pack.

The right of access along the coastal margin may, in certain places, be subject to restrictions or exclusions, e.g. for nature conservation or land management purposes, but NE will consider the need for restrictions or exclusions as part of the process of

proposing the path. Any dogs will be required to be kept under effective control, and on particular sections of the coastal margin might be required to be kept on a lead. The path itself will be established so that it can remain open but there are some categories of excepted land along the coastal margin which will have no right of access.

Excepted Land on the coast

- land covered by buildings or the curtilage of such land;
- land used as a park or garden;
- land used for the getting of minerals by surface working including quarrying (except, under certain circumstances, the removal of sand or shingle from an area of foreshore or beach);
- land used for the purposes of a railway (including a light railway) or tramway;
- land covered by pens in use for the temporary detention of livestock;
- land used for the purposes of a racecourse or aerodrome;
- land which is being developed and which will become excepted land under certain other excepted land provisions;
- land covered by works used for the purposes of a statutory undertaking (other than flood defence works or sea defence works) or the curtilage of such land;
- land covered by works used for an electronic communications code network or the curtilage of any such land;
- land the use of which is regulated by byelaws under section 14 of the Military Lands Act 1892 or section 2 of the Military Lands Act 1900;
- land which is, or forms part of, a school playing field or is otherwise occupied by the school and used for the purposes of the school; and
- land which is, or forms part of, a highway (within the meaning of the Highways Act 1980).

The following categories are excepted land but NE may recommend that the trail cross them on an access strip.

- land on which the soil is being, or has at any time within the previous 12 months been, disturbed by any ploughing or drilling undertaken for the purposes of planting or sowing crops or trees (see section 8.7 of the Scheme);
- land used for the purposes of a golf course (see section 8.19 of the Scheme);
- land which is, or forms part of, a regulated caravan or camping site (see section 8.18 of the Scheme); and
- land which is, or forms part of, a burial ground.

The English Coastal Route - The Path

The new coastal path called the 'English Coastal Route', or simply the coastal route or coastal trail, will normally be 4 metres wide (2 metres either side of the centre line of the path), although where this coincides with a physical feature such as a fence, wall or hedge it may be less. Similarly, the path may follow existing rights of way or existing coastal paths.

The Coastal Margin or Spreading Room - Public Access Land

Alongside the new English coastal route will be public access land, referred to as the coastal margin or spreading room. This will be open space to which the public have a right of access for quiet recreation including walking, climbing and picnicking. All land seaward of the coastal route will be spreading room (unless it is excepted land) as well as any coastal land, as defined in the Countryside and Rights of Way Act 2000, as foreshore, cliff, bank, barrier, dune, beach or flat, on the landward side of the route.

In addition, NE has the power to include other land types as spreading room landward of the route, usually up to a physical feature such a wall or fence, if it feels it will make it easier for the public to access and enjoy the coast.

The Coastal Access Scheme

The Marine and Coastal Access Act 2009 requires NE to prepare a scheme setting out the approach it will take in carrying out the coastal access improvements on the ground. The scheme explains how NE will reach its proposals as to where and how the route and the boundary of the coastal margin will be positioned on a particular section of the coast.

The scheme describes the overall process that NE will follow in reaching the new coastal access proposals, including the steps that will be taken to consult with all those with a relevant interest in affected land as well as stakeholders and other interested parties.

Consultation with landowners and those with an interest in the land will take place to identify any concerns over such matters as land management, privacy or business interests. There will also be discussion with other local interests – including parish councils, other local authorities and local access forums, and wildlife and user groups such as the Ramblers and the BMC – which will form a key part of the local design.

NE intends to work closely with the 52 English coastal access authorities throughout the process of establishment of the coastal access rights on the ground, combining the detailed understanding of local circumstances of access authorities with NE's nationally consistent approach.

The scheme sets out the criteria that will be used to ensure that in reaching these conclusions a “fair balance” is struck between the interests of the public in acquiring a right of access and the interests of any owner or occupier of land over which the new right would apply, taking full account of the need to protect the natural environment. The scheme includes detail on how this will apply in a wide variety of situations, both in terms of the type of land and the use of it.

Coastal Access Reports

Following public consultation on a particular stretch of coast, NE will produce a Coastal Access Report, recommending to the Secretary of State the alignment of the route and location of spreading room.

Each report will include:

- a map of the proposed route and any alternative routes;
- an indication of the extent of any spreading room seaward and landward of the route, using descriptions, maps or both, depending on what is necessary to make the proposals clear in each circumstance; and
- a description of any local management that is considered necessary, including any local restrictions or exclusions, at the time the report is submitted.

Two versions of each report will be published; a draft for public consultation and a final report which is submitted to the Secretary of State for approval. They will both contain the same information:

- Maps of the proposed route;
- Written descriptions of sections including detail on estuaries, areas of roll back, spreading room etc;
- Costs or any works needed, such as new gates;
- Summaries of nature conservation assessments;
- Proposals for any access management or restrictions needed;
- Integration with other management plans such as Rights of Way Improvement Plans, Local Transport Plans etc.

Draft reports will undergo a 12 week public consultation and these will provide details of the proposed route for the whole the section of coast as well as spreading room.

Final reports will be produced outlining any modifications made to the coastal route based on comments received during the 12 week consultation phase. Anyone can make representations to NE about the report, including comments on the line of the proposed path, or about any restrictions or exclusions which are proposed or which they believe should be proposed. NE must send the Secretary of State a summary of the representations together with their comments. Certain listed bodies, will be able to make representations to NE which it must include in full, together with any comments it may have on them, in the report to the Secretary of State. It is planned that these listed bodies will include the Ramblers and the BMC. Once NE has prepared a report to the Secretary of State on a coastal route, local access authorities will have a further opportunity to comment on the proposals.

In addition, those with a relevant interest in affected land may make objections on certain grounds, which will be considered by an appointed person (this is most likely to be an inspector from the Planning Inspectorate) who will make a recommendation to the Secretary of State including, if appropriate, a recommendation that the route proposed in the report should be modified. The Secretary of State will consider the report, together with the representations and comments, the summary of other representations and any recommendations of the appointed person and will either approve or reject the report, or approve the report subject to modifications.

Once the route has been approved for a stretch of coast, any necessary establishment work will be undertaken to create new or improved means of access, for example by installing bridges, steps, gates or drainage. Access authorities are likely to oversee the local implementation of the route on the ground, such as consulting with local interests, contacting and discussing options with landowners

and managers, entering into agreements with landowners as to the carrying out of establishment works, and managing the work required to establish and maintain the access. NE will fund the establishment of the coastal route but will work through the access authorities where they are willing to do so. The establishment of the route will be carried out over a period of years – the assumption is that most work will be complete after 10 years, but there will not be a cut-off date for completing the work.

Restrictions on Public Access

Natural England aims to identify any foreseeable need for access management restrictions and temporary or alternative routes along each stretch of the coast as part of the alignment process. This will be done in consultation with the landowner and those who have ‘relevant expertise and local knowledge’. As part of the reports NE must give details of any restrictions which they believe are needed.

These restrictions will not undergo a separate public consultation and so any comments will need to be made during the draft report stage. When considering the need for a restriction, the “least restrictive option” principle should be followed.

Informal management techniques may already be in use to manage existing public access before coastal access rights are introduced. NE will not intervene further if they conclude that these existing arrangements are adequate to address a concern. Voluntary climbing restrictions for example, are well established and widespread, and have proved an effective means to prevent disturbance from climbers during the season for cliff nesting birds. NE will rely on these established systems provided they continue to be effective.

When considering a restriction, all relevant authorities must follow the same set of guidelines, the Statutory Guidance to Relevant Authorities, on their functions in relation to local access restrictions. A copy of the guidelines is included on the CD contained in the full volunteer pack or can be found on NE’s website.

Public safety and the coast

The coast can be a dangerous environment, but NE believe that the public can and do make use of it safely and sensibly. In some cases (e.g. climbing on cliffs) members of the public wish to be allowed to make their own judgement on the level of risk they want. General information on safety is important, and the public need to be made aware of any unusual or hidden risks.

NE also believe that it is right that those who go to the coast should take responsibility for their own safety and do not believe that landowners should become subject to an increased risk of liability because of the new right of access. The legislation therefore removes occupier’s liability in respect of any natural feature, in the same way as for other CROW access land, but in addition removes occupier’s liability in respect of any non-natural feature. In both cases this is subject to safeguards, in particular the occupier not having acted intentionally or recklessly about a known danger.



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