

## Department for Environment, Food and Rural Affairs Consultation on Proposals to improve access to the English Coast Response proforma

Please use this proforma to answer the questions in the above document. The closing date for the submission of responses is **Tuesday 11 September 2007**.

Responses should be clearly marked in the subject field **Consultation on access to the English coast** and should be sent:

- by email to: [coast.consultation@defra.gsi.gov.uk](mailto:coast.consultation@defra.gsi.gov.uk)
- or by post to: Andrew Crawford , Coast and Open Access Team, Zone 1/01, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6EB

The email address may also be used for general queries relating to this consultation. Please mark the subject field **Consultation on access to the English coast**.

To help us analyse responses, please provide details of yourself or your organisation (\*if appropriate below)

In line with Defra's policy of openness, at the end of the consultation period copies of the responses we receive may be made publicly available through the Defra Information Resource Centre, Lower Ground Floor, Ergon House, 17 Smith Square, London SW1P 3JR. The information they contain may also be published in a summary of responses. If you do not consent to this, you must clearly request that your response be treated confidentially. Any confidentiality disclaimer generated by your IT system in email responses will not be treated as such a request.

You should also be aware that there may be circumstances in which Defra will be required to communicate information to third parties on request, in order to comply with its obligations under the Freedom of Information Act 2000 and the Environmental Information Regulations.

Defra's confidentiality statement in full can be found at <http://www.defra.gov.uk/corporate/consult/coast-access/letter.htm>

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Date of response	10 September 2007

NB: on the form below, please leave the response box blank for any questions that you do not wish to answer. Responses including any general comments you might wish to make are welcome on any number of the questions.

For each question it would be helpful if you could please indicate whether you agree, disagree or are uncertain by marking the box (as appropriate).

<b>Chapter 2: Vision and Outcomes</b>			
<b>1</b> Do you support this vision? If not, what vision do you have for improving access along the English coast?			
Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
		Not sure	<input type="checkbox"/>
<p>We strongly support the government's vision for access to the coast, which combines providing secure public access with protection and improvement of the landscape and its habitats. However, we consider that users other than walkers should be mentioned in the vision, for instance by adding after 'rights to walk' the words 'and opportunities for other forms of quiet recreation'.</p>			
<b>2</b> Do you have any comments on Outcome 1?			
Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
<p>We strongly support this. There must be a right of access along the English coast which is secure in law but recognises reasonable exceptions, and is within a broad band, so as to give an open feeling of freedom. Such a right will benefit the economy of the coastal zone. The House of Commons Communities and Local Government Committee report on coastal towns (February 2007) found that tourism was of great importance to them, especially since many of them were declining economically. Coastal-access rights will give them a much-needed boost.</p>			
<b>3</b> Do you have any comments on Outcome 2?			
Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>

We strongly support this. New routes should be provided at regular intervals to ensure that the coastal band is linked to rights of way and other access land.

4 Do you have any comments on Outcome 3?

Yes



No



It is important that the benefits of the new coastal access are for wildlife, landscapes and coastal management, as well as for people. Resources must be made available to ensure that habitats can be restored and farmers are encouraged not to cultivate land right up to the cliff or water's edge.

5 Do you have any comments on the relative importance of the three Outcomes?

Yes



No



They should have equal importance. They provide benefits all round.

### Chapter 3: Factfinding and conclusions drawn

6 Are there any other sources of information you are aware of which you consider should contribute to the evidence base?

Yes



No



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7 Do you agree with Natural England’s overall picture of the current access situation on the coast? Any there any other studies that might support these conclusions or add to them?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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This seems to be an accurate picture.

8 Do you agree with Natural England’s strategic conclusions? If not, what aspects of Natural England’s strategic conclusions do you disagree with, and why?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Mix of national momentum with local involvement and design  
 While the mix is essential it will be important to ensure that even if local authorities are slow to act, the access is delivered. Therefore government must charge Natural England to deliver against tight targets.

Scalability  
 We agree that activity has to be geared to resources, but we trust that there will be sufficient resources to ensure that the activity is maintained at a reasonable level.

Continuity and consistency  
 We agree with this, but are concerned at the proposal to concentrate on filling gaps in access. We consider that the coast should be viewed as a whole with the aim of achieving good quality access along its length, with certainty for the public.

Salt marshes and mudflats  
 These should not be treated separately, although we acknowledge that access here is more complicated. However, they should not delay achieving coastal access. The solution should be to restrict access to routes through sensitive areas.

Future-proof and flexible  
 We agree that this is essential, and is one of the many benefits of a band of coastal access as

opposed to a mere route.

**Management**

We agree and see great benefit for habitats and wildlife in the proposals.

**Legal liability**

We agree with the proposed solution. We strongly support the idea of a Coastal Access Code and recommend looking at the Scottish Access Code to provide a model.

**9 Are there any other perspectives or factors that you think should be considered?**

Yes

No

Not sure

The new rights of access to the coast should be accompanied by stronger planning protection for the coastal zone. We hope that Defra will press for a new Planning Policy Guidance Note for the coast, which makes it clear that there will be a presumption against development on the coast which will interfere with public access, natural beauty, wildlife habitats etc.

**Chapter 4: Work undertaken on benefits and costs**

**10 Do you have any comments on the benefits and costs identified in the partial Regulatory Impact Assessment?**

Yes

No

**11 Are there any other benefits and costs that are relevant to the options which should be considered?**

Yes

No

**Chapter 5: Option 1 – Highways Act 1980**

12 Do you agree with Natural England’s assessment of option 1 – use of the Highways Act 1980?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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We agree with this analysis. While of course this mechanism is available at present, we note that it is rarely used. Our principal concerns are the cost of providing this (which requires the payment of compensation in most cases), its dependence on local authorities who are unlikely to take the necessary action, and the fact that a single route is not sufficiently flexible or future-proofed.

13 Do you agree with our assessment of the likely scale of effect?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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See answer to question 12

**Chapter 6: Option 2 - Section 3 of the Countryside and Rights of Way Act 2000**

14 Do you agree with Natural England’s assessment of option 2 – the use of section 3 of the Countryside and Rights of Way Act 2000?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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We do not consider that mapping is the solution for the coast, it is too complex and would be extremely slow and expensive to deliver, and unnecessarily polarising with its opportunity for a large number of public inquiries. We consider that the new right of access to the coast must be defined by words and an Access Code.

15 Do you agree with our assessment of the likely scale of effect?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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It is hard to estimate because it would depend on the exact process used, the methodology and the extent of appeals by landowners. Also, if the discretion over land less than 5 hectares in area were to be maintained, much land would not be mapped at all to which there ought to be access.

**Chapter 7: Option 3 – Voluntary measures to create permissive access**

16 Do you agree with Natural England’s assessment of option 3 – the use of voluntary measures to create permissive access?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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If this option were adopted nothing would happen. Permissive access can be provided now, but little is. As the government discovered in 1999 after its consultation on access to open country, permissive access does not guarantee the extent, quality, permanency, clarity and certainty of access which the public requires.

17 Do you agree with our assessment of the likely scale of effect?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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See answer to question 16.

**Chapter 8: Option 4 – proposal for new primary legislation**

18 Do you agree that the Government should introduce new primary legislation to allow for a tailored access regime around the coast? If not, which of the options would you prefer?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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This is the only way to achieve the government's vision and outcomes. We strongly support the national coastal access corridor, enshrined in legislation, with a clear Access Code. However, we would wish there to be specific consideration of inclusion of rights for horse-riders and cyclists. We strongly agree that compensation should not be payable - there is unlikely to be any loss to owners or occupiers (as has been demonstrated by access under the Countryside and Rights of Way Act 2000), and many will benefit from the new access rights as people will be encouraged to visit the coast and spend money there.

19 Do you think that spreading room (such as headlands, viewpoints or uncultivated land) along the coast is important?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Yes, to provide physical and psychological freedom of knowing you don't have to stick to a path (one of the many benefits of the CROW Act). Spreading room should be provided wherever possible, in addition to the ability to move freely within the access corridor around the coast.

20 Do you believe it is important to formalise access to beaches?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Definitely - the public considers it has the right to beaches already, and this legislation must secure a right.

21 Do you have any comments on the proposal for a statutory methodology?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
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It must be easy to understand and not open to different interpretations. It must aim to include as much coastal land as possible, and it must be a true corridor and not just a path except where this is unavoidable. The land types must include all those in the CROW Act section 3, as well as the cliff slopes, marshes, estuaries, coastal woodland and manmade structures such as sea walls and defence barriers. It must also include the coast around islands.

Access to estuaries should include a legal right to walk up to the first pedestrian crossing, within a coastal corridor.

22 Do you agree there should be a right of appeal against Natural England's application of the statutory methodology?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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The right of appeal must be available to the public as well as landowners, and the rights must be equal throughout the process (unlike with CROW where landowners have greater rights of appeal). The public must have a right to challenge areas that are left out of the coastal corridor.

23 Do you have any views on this approach to protecting important wildlife and habitats?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
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We agree that nature conservation assessments should be undertaken, but the process must be easily understandable by the public, who should have an opportunity to challenge them.

24 Do you agree that planning and implementation should be undertaken through access authorities wherever possible and funded by Natural England?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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We are concerned that the access authorities might not do the job, due to other priorities and lack of resources, and that this could lead to different arrangements around the coast. It is important that the access is consistent, to give the public confidence and certainty. Natural England must give a strong lead and make it clear what its expectations are. There needs to be a process for ensuring that access authorities will act, and for taking action where they fail to do so. We are anxious that the access will be implemented swiftly once the legislation comes into effect and does not have to wait for access authorities to do work. The access should be in place and people should have the right to exercise it - if the authority is then failing, the public can put pressure on councillors to take action.

25 Do you agree that Natural England should have powers to do such work itself where the access authority was unwilling to act?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Definitely, and we trust Natural England will act quickly. In addition there needs to be a power for the public to take action against either NE or the access authority where they are not implementing their duties, similar to section 63 of the Countryside and Rights of Way Act 2000 in relation to public rights of way.

26 Do you think it is important that local solutions should be designed in consultation with local interests?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input checked="" type="checkbox"/>
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While we agree that there must be local involvement, we are concerned that designing local solutions could lead to lack of consistency, depending on the inclination of the local authority. Natural England must take a strong lead in ensuring this all happens, in a consistent manner.

Local involvement will be important for designing any infrastructure, providing information and securing public transport.

27 Are there any partners that you consider Natural England should particularly involve in its consultations?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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All the access and recreation organisations and coastal local access fora.

28 Should any legislation enable conditions to be placed on access if necessary (eg seasonal diversions to protect sensitive species or permanent diversions as a result of coastal change and realignment)?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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However, these should be kept to a minimum and it should be assumed that the public will behave responsibly, and that they must be able to travel right round the coast. An alternative way must be provided before any restrictions are imposed on the corridor

29 If so, should it be the responsibility of Natural England or the access authority to plan for and implement such conditions?

Natural England should lead on this, as it has the all-round expertise.

30 Do you agree 10 years is a reasonable timescale for implementation? If not, what period should the implementation programme be over?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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31 Do you have any comments on Natural England's assessment of costs?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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32 Do you agree that compensation should not be paid in respect of the new right of access?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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We strongly agree that compensation should not be paid - there is unlikely to be any loss to owners or occupiers (as has been demonstrated by access under the Countryside and Rights of Way Act 2000), and many will benefit from the new access rights as people will be encouraged to visit the coast and spend money there.

33 If you disagree, in what circumstances do you think compensation should be paid, and why?

34 Do you agree that the reduced level of occupiers' liability introduced for access land under the Countryside and Rights of Way Act 2000 should also apply to coastal access?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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35 Do you have any comments on Natural England's proposals for complementary work to enhance coastal landscapes and wildlife?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
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We strongly support this, and there should be funding to improve the management of coastal land, similar to the Access Management Grant Scheme.

In addition, agri-environment schemes could be targeted to the coast to encourage land managers to restore heath and downland habitats, and thereby provide access too.

36 Do you have any other general comments on Natural England's proposals for new primary legislation?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
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The forthcoming Marine Bill will provide an opportunity to introduce this.

37 Do you agree with Natural England's assessment of the outcomes its recommended approach would deliver?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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38 Do you agree with our assessment of the likely scale of effect?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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**Chapter 9: Other issues**

39 Do you believe there is a need for higher rights (rights other than a right of access on foot for open-air recreation) around the coast?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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Wherever possible, rights for horse-riders and cyclists should be provided. The Scottish Access Code provides a suitable model.

40 Do you have any information on demand for, and opportunities to provide for higher rights?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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41 Do you consider there is a need for more advice or information on possible visitor safety risks being available to the public if access to the coast was improved? If so, are there any particular issues that the advice and information should cover?

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Not sure	<input type="checkbox"/>
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We don't feel strongly about this as people already visit the coast and there are few incidents. However, the Access Code should include such information.

42 Do you agree with Natural England's advice that improving access to salt marshes and mudflats should not be a national priority in its own right?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Not sure	<input type="checkbox"/>
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See question 8

43 Are there any other issues we need to take into account in assessing how we might improve access to the English coast?

The Open Spaces society has been calling for access to the coast since 1936 when our then secretary, Lawrence Chubb, wrote an article in our Journal:

'We have called attention more than once to the danger which confronts the people of this island, of losing their freedom of access for recreation to a large proportion of their own coastline, owing to the rapid progress of building and other forms of development involving the enclosure of long stretches of the coast.

'We repeat the warning now, because the imminence of the danger, and the extent to which it has become an actuality, do not seem even now to be sufficiently realised. The public have long taken for granted their right to walk on cliffs and coast generally and to take their pleasure there; but above high watermark this supposed right is on an extremely precarious basis, and except where it is possible to prove the existence of a public right of way or of rights of common there is, generally speaking, no legal obstacle to prevent owners of coastal lands from enclosing them and excluding the public whenever they please.

'Where such lands have been acquired by the local authority for preservation, or have been bought by private subscription and vested in the National Trust, the possibility of enclosure has been forestalled; but much of the coast is still without any protection, and the society receives constant complaints of the exclusion of the public from tracts and cliff paths which have hitherto been freely open for general enjoyment.

'Failing actual acquisition for the public, such lands can be protected from enclosure by means of planning schemes; but it seems that far too many authorities are allowing the chance of doing this to slip through their fingers. Inaction may be pennywise but it is certainly pound foolish; for if visitors to a seaside place find themselves suddenly cut off from their bathing coves and picnic grounds by private houses or hotels and their enclosures, they will go elsewhere.'