

Report on	The provision of access for outdoor recreation in Northern Ireland – Key Stakeholder Consultation
Date of Meeting	Thursday 11 March 2021
Reporting Officer	N Hill Head of Parks
Contact Officer	A Reid Parks & Countryside Development Officer

Is this report restricted for confidential business? If 'Yes', confirm below the exempt information category relied upon	Yes	
	No	x

1.0	Purpose of Report
1.1	To seek members approval in responding to The provision for access for outdoor recreation in Northern Ireland, Key stakeholder Consultation, prepared by DAERA. Copy of Consultation document in Appendix 1.
2.0	Background
2.1	Northern Ireland has a mixture of extremely varied and beautiful lands and seascapes within a very small geographical area. Mountains, moorlands, forests, extensive inland waterways and a spectacular coastline all make up our local environment. Our towns and cities tend to be relatively small and therefore greenspace, such as hills, forests and parks are in close proximity to most of the people who live and work here. However, access to the natural environment is often restricted and the provision varies from area to area.
2.2	Public access to land in Northern Ireland is more restricted than other parts of the United Kingdom. Land ownership in Northern Ireland is significantly different from the rest of the United Kingdom as most farms are of a much smaller scale, with a proportionately higher number of the population with land owning interests.
2.3	Although some areas of the countryside may have been used freely for recreation for many years, the public have no general rights to wander over open land, mountains, moorland, woodlands, the foreshore, etc. However, many landowners tolerate access to their land without a formalised agreement.
3.0	Main Report
3.1	Council has received the attached consultation, App 1, in relation to the access provision in Northern Ireland. The aim of this consultation is to seek the views of key stakeholders on the current provision members of the public have to Northern Irelands natural environment for outdoor recreation, and investigate how provision can be improved, while protecting the environment and recognising the needs of

landowners. **This consultation is not considering an overall “Right to Roam”, or the development of National Parks in Northern Ireland**

The current provision for access to land in NI is outlined below:

Public Accessible land

Forestry Act (NI) 2010 – public has a statutory access on foot to all forests
Water and Sewerage Service (NI) Order 2006 – NI Water (NIW) obliged to have ‘regard to the desirability of public access to its land’.

Conservation and Amenity Lands (NI) Order 1985 – allows DAERA to:

- Designate lands as a National Park or Areas of Outstanding Natural Beauty including promotion of public enjoyment of the area and the provision and maintenance of public access
- Create Nature Reserves – many open for public access
- Acquire land for access provision

Current Legislation governing access to private land

Access to the Countryside (NI) Order 1983

- The Order designates the Councils as the guarantors and facilitators of access

Legislation gives Council’s power to:

- Enter into public path creation agreements with landowners to create public rights along linear routes (discretionary)
- Designate new open access in areas of open country for open air recreation by Order of Agreement (discretionary)
- Acquire areas of open country for the provision of recreational access
- For both Agreement and Orders – compensation can be made to the landowners concerned, eg if the value of their land depreciates as a result of the Access Order

Councils shall

- Assert, protect and keep open and free from obstruction any public rights of way (PROW)

What is a public right of way?

- A highway which any member of the public may use as a right – not as a privilege granted by the landowner
- May be created specifically by the landowner (express dedication) or through ‘deemed dedication’ – the landowner knows that a path has been used by walkers over a period of time (often approx 20yrs)
- May be limited to certain users – 3 types of PROW
 - o Walkers only
 - o Walkers and horse riders
 - o Carriageway

- Is a legal entity and will remain unless the path is extinguished or diverted by due legal process
- Must be respected by the occupier and landowner

Most access in NI is created through **Education and Youth Service (NI) Order 1986**

This Order allows Councils to secure Permissive Access

- This is the most common way of increasing access in NI on private land, through permission with landowners
- Permissive Path is not a PROW
- Permissive Path – can allow access for pedestrians, cyclists and horse-riding
- Permissive Path Agreement(PPA) is the creation of a linear access on any terms agreed by the Council and the landowner
- Usually exist for a limited period of time, eg 10 or 15 or 25 years
- Can be closed at certain times of the year eg to protect nesting birds
- All is agreed between the landowner and Council at time of creating PPA
- Under PPA the Council usually takes on the maintenance, management and liability for the path

Current access legislation within Great Britain:

Scotland

The Land Reform (Scotland) Act 2003

Creates a right of *responsible access* to most undeveloped and uncultivated land for recreation, education and some commercial purposes.

England and Wales

Countryside and Rights of Way Act (2000) (CROW) enacted which give public access to:

- Land mapped as open country by Natural England (mountain, moor, heath or down)
- Any land more than 600m above sea level where no map exists
- Registered common land (under the Commons Registration Act 1965)
- Land designated by the owner as access land

England has c.1million hectares of open access land – two-thirds of this was opened under the CROW Act

The Marine Coastal Access Act – opened coastal route around England and Wales.

4.0	Other Considerations
4.1	Financial, Human Resources & Risk Implications
	Financial: There are no financial implications.

	Human: There are no implications.
	Risk Management: No implications.
4.2	Screening & Impact Assessments
	Equality & Good Relations Implications: In line with Council's procedures
	Rural Needs Implications: In line with Council's procedures
5.0	Recommendation(s)
5.1	Members are requested to approve the response to The provision for access for outdoor recreation in Northern Ireland, Key stakeholder Consultation, prepared by DAERA.
6.0	Documents Attached & References
	Appendix 1, The provision of access for outdoor recreation in NI, Key stakeholder consultation