

DIO

JSP850

Public Access and Recreation

Document Control

Document ID	20201015-JSP 850-UMO-Public Access and Recreation
Product Name	Public Access and Recreation
Owner	FMC
Author	DIO- Technical Services
Approval 1* Level or delegated power	██████████
Date Approved	11 September 2020
Change Request No (If applicable)	
Security Classification	Official
Version Number	Final
Comments	

CONTACT POINT(S)

Job Title	Email
Senior Access & Recreation Advisor	██

PUBLIC ACCESS & RECREATION

Purpose and Applicability

The MOD has a huge and varied estate, much of which is open to public access and recreation. This section defines the guidance and standards covering Access and Recreation on the Defence Estate and is applicable to the Defence Estate both in the UK and overseas.

Scope

The DIO Environmental Support and Compliance Access and Recreation Team (DIO ESC ART) is responsible for ensuring the adherence of all policy, guidance and standards relating to public access and recreation.

The DIO Senior Access and Recreation Advisor is the Designated Officer (DO) on behalf of the Secretary of State (SofS) for Defence for all matters relating to public access and recreation on the Defence Estate and as such should be consulted on all these matters.

Linear Access (England and Wales)

Statutory Routes (Public Right of Way - PROW)

1. MOD has a statutory duty to keep all PROW on the Estate available for use by the public and free from obstruction.
2. If statutory routes are considered incompatible with military training, the primary use of the estate, consideration is to be given to whether changes are to be made to better enable the use of the land for military purposes. Any proposed changes to existing statutory routes are to be raised by the DIO local office and investigated by the DO.
3. New statutory routes proposed by internal or external agencies are to be facilitated where acceptable and where fitting with the guidance as stated above. The DO is to be informed of all new routes.

Unauthorised PROW

4. To safeguard against the likelihood of a claim for a statutory PROW appropriate steps are to be taken to ensure:
 - MOD boundaries are suitably monitored and managed to deter and prevent inappropriate public access,
 - existing public access management includes mechanisms of informing the public if access is by right, by permission of the MOD or if public access is not permitted.

To bolster the fact that public access is not permitted or is by permission only, it is recommended that Land Management Service (LMS) inform the

appropriate Highway Authority of the extent of permitted public access beyond the statutory routes.

5. All MOD land, all permissive access routes, including vehicular ways, that are used by the public but over which no PROW exists, are to be physically closed for one complete day annually to ensure that no such PROW can be established. The exemption to this guidance is that land held in freehold in England and Wales in the name of SofS for Defence,

6. Trespass on MOD Property and Encroachment are covered in separate sections in this JSP.

Non-Statutory Routes

7. The provision of non-statutory routes may be considered an appropriate means of public access management to support military training, the primary use of the estate. These may complement existing statutory routes which cannot be changed or obstructed without following the legislative procedures. Proposals for non-statutory routes are to be raised by the DIO local office and investigated by the DO. The DIO LMS Estate Surveyor (ES) for the site is responsible for drawing up any access agreements relevant to the route.

Linear Access (Scotland)

Statutory Routes (PROW/Core Paths)

8. All statutory routes are to be kept open and useable, and free from obstruction.

9. Any new routes or changes to statutory routes, for example as a result of Core Path Plan reviews which can take place as the access authority requires or at Scottish Ministers request, are to be brought to the attention of the DO for investigation.

Open Access (England and Wales)

10. Part I of the Countryside and Rights of Way Act 2000 (CROW) contains provisions for statutory rights of access, in England and Wales, on foot to land dedicated for open access (mountains, moors, heaths and downs) and registered common land. In so far as MOD is responsible and subject to defence requirements, statutory rights of access are to be accessible and restrictions minimised.

11. Schedule I of the CROW Act lists categories of 'excepted land' to which access rights will not apply. This includes all land subject to military byelaws, and registered airfields.

12. Section 28 of the CROW Act enables SofS for Defence to temporarily or permanently restrict access for the purposes of national security or defence.

13. The DO is to be the point of contact for all matters relating to Open Access under CROW.

Open Access (Scotland)

14. Part 1 of the Land Reform (Scotland) Act 2003 (LR(S)A) refers to the statutory rights of non-motorised access, on, over and under all land and inland water in Scotland, except land which is specifically excluded by the legislation.

15. Statutory exclusions include 'airfields, military bases and installations'. Land subject to military byelaws is excepted from the provisions of the Act only during times when the land is being used for a military purpose. Military Byelaws are covered in this section¹.

16. The DO is to be consulted on all issues relating to Open Access on the defence estate in Scotland.

Purposes of Defence or National Security (Section 104 Order)

17. The Scotland Act 1998 contains powers that permit the removal of an area of land from particular Scottish legislation. This could be used to suspend the LR(S)A in certain areas. MOD policy is that this will only be considered when all other access management measures are not sufficient as to enable safe military training to take place. The DO is to be the point of contact for all queries relating to the use of s104 Orders.

Northern Ireland

18. Public Access in Northern Ireland is restricted to Public Rights of Way and areas of Permissive Access. As a result, there is very limited Public Access to Defence Land in Northern Ireland. Head of Establishment (HoEs) are to contact DIO ESC ART for guidance on any requests for changes to current Public Access provision on the Northern Ireland estate.

Overseas

19. Public Access to Defence Land on the Overseas estate is very limited. HoEs are to contact DIO ESC ART for further guidance on local arrangements and legislation where required.

Coastal Access (England)

20. Part 9 of the Marine and Coastal Access Act 2009 (MCAA) aims to improve and provide public access on foot, to the England coastline by public rights along the coast for open air recreation. Natural England are responsible for delivering the project and aim to have the full England Coast Path in place by the end of 2020².

¹ Internal link to KiD.

² [Improving Coast Path Public Access](#)

21. The Coastal Path consists of the linear route, which enables users to navigate along the length of the coast, and the coastal margin, within which the public have a right of access on foot, as defined under CROW. The margin includes all land between the trail and the sea. It may also extend inland from the trail.

21. New coastal access statutory routes, provided under the MCAA, have been facilitated where acceptable and where fitting with the MOD guidance and standards as stated above.

23. Schedule I of the CROW Act is applicable, listing categories of 'excepted land' to which access rights will not apply. This includes all land subject to military byelaws and registered airfields.

24. Similarly, Section 28 of Part I of the CROW Act enables SofS for Defence to, temporarily or permanently, restrict the provision of coastal access for the purposes of national security or defence.

25. The DO is the point of contact for all matters relating to Coastal Access under MCA.

Common Land (Commons Act 2006)

26. There is Common Land on the Defence Estate. However, wherever possible, the MOD has acquired both the land and Rights of Common when acquiring land. During the introduction of the Commons Act 1965 (subsequently replaced by the Commons Act 2006), the draft registers were checked to ensure that MOD interests were recognised. However, there are still areas where commons rights exist. From the implementation date for an area, the remaining common land must be managed in accordance with the provision of the 2006 Act.

27. The DIO LMS ES for the site is responsible for liaising with landowners who retain commoners' rights over the MOD estate.

Directional Signs and Information Notices

28. The Occupiers Liability Acts (1957 & 1984), Occupiers Liability (Scotland) Act (1960), Occupiers Liability (NI) Act 1957 and Occupiers Liability (NI) Order 1987 place duties upon the 'occupier' (England & Wales) and the 'occupier of premises' (Scotland) to act responsibly towards both invited and uninvited users.

29. While directional signs such as waymarkers and information notices, are not subject to statutory regulation, many other signs used, either directly or indirectly, to inform and manage public access and recreation on the estate are, and their use is covered within other MOD policy documents.

30. All queries relating to Directional Signs, Open Access Signs and Public Information Notices under CROW and LR(S) A should be directed to DIO ESC ART.

OTHER INFORMATION SOURCES

APPLICABLE LEGISLATION

GLOSSARY

ART	Access & Recreation Team
CROW	Countryside & Rights of Way Act (2000)
DIO	Defence Infrastructure Organisation
DO	Designated Officer
ES	Estate Surveyor
ESC	Environmental Support & Compliance Team
HA	Highways Authority
HoE	Head of Establishment
LMS	Land Management Service
LR(S)A	Land Reform (Scotland) Act 2003
MCAA	Marine and Coastal Access Act (2009)
MOD	Ministry of Defence
PROW	Public Right of Way
SofS	Secretary of State

Terms and Definitions

Linear Access: Linear Access includes designated Public Rights of Way (PROW) and non-statutory routes (often termed permissive paths) and other paths with agreements for public use.

Open Access: Areas of the Defence Estate are available to recreational open access provided under the Countryside and Rights of Way Act 2000. In England and Wales this mainly applies to access on foot, with access on horseback and pedal cycle generally restricted to linear access routes. In Scotland, open access, as defined by the LR(S)A, applies to all forms of non-motorised recreational access.

Coastal Access: Coastal Access refers to land open to Coastal Access under the MCA.

Highway Authority: In the United Kingdom, the Highway Authority is the organisation responsible for the maintenance of public roads and public rights of way, usually the County Council or unitary authority

Statutory Route: A statutory route for the purposes of this document is a public right of way, which is a route on which the public have a legally protected right to pass and re-pass, or a Core Path (see definition below).

Non-Statutory Route: A Non-Statutory Route has no legal protection. Generally termed a permissive route, the landowner allows access to be taken along a route, often under the constraints of a drawn-up Access Agreement.

Core Paths: Under the LR(S)A, all Access Authorities in Scotland were legally obliged to create a Core Path network which is a network of paths throughout the authority area, and which the public can expect to be open for access at all times. Not all Core Paths are Public Rights of Way.

Common Land: Common Land is land owned collectively by a number of persons, or by an individual, but over which other people have certain traditional rights, such as to allow their livestock to graze upon it, to collect firewood, or to cut turf for fuel.

Key Legislation/Policy	Year of Effect	Summary of key points and their application	Regulatory Authority
Countryside & Rights of Way Act	2000	Part I contains provisions for statutory rights of access on foot to open country, registered common land and land dedicated for open access	Natural England/Natural Resources Wales
Land Reform (Scotland) Act	2003	Part I refers to statutory rights of access on, over and under all land and inland water in Scotland, except land or activities specifically excluded by the legislation.	Scottish Government
Marine & Coastal Access Act	2009	Part 9 of the Act makes provision for the establishment of an English coastal walking route and of rights of access to land near the English coast; to enable the making of Assembly Measures in relation to Welsh coastal routes for recreational journeys and rights of access to land near the Welsh coast	Natural England/Natural Resources Wales
The Commons Act	2006	The 2006 Act requires that the commons registers are brought up to date, the rectification of errors and the establishment of commons councils.	
Occupiers Liability Act	1957/1984	The Occupiers Liability Acts (1957 & 1984) place duties upon the 'occupier' to act responsibly towards both invited and uninvited users.	
Occupiers Liability (Scotland) Act	1960	The Occupiers Liability (Scotland) Act places a duty upon the 'occupier of premises' to act responsibly towards both invited and uninvited users.	
Occupiers Liability (NI) Act	1957	This act is relevant to Occupiers liability to lawful visitors	
Occupiers Liability (NI) Order	1987	This Order is relevant to Occupiers liability to trespassers	