

JSP 362 CHAPTER 7

PUBLIC ACCESS AND PUBLIC INFORMATION

Introduction

0701 This chapter deals with MOD's obligations to manage the public access and recreation interests of the defence estate. It covers both statutory and non-statutory measures. The aim is to provide guidance on the overarching MOD policy on public access and recreation – *the presumption in favour of public access wherever this is compatible with operational and military training uses, public safety, security, conservation and the interests of tenants* ([Defence Estate Strategy 2006](#), p22).

0702 The chapter is divided into four sections:

- **Section 1.** Responsibilities for public access and information on the defence estate.
- **Section 2.** Public access and recreation policy.
- **Section 3.** Directional signs and information notices.
- **Section 4.** Stakeholder liaison.

0703 It should be read in conjunction with other MOD publications including the MOD Estate Strategy 2006, the [MOD Sustainability and Environmental Appraisal Tools Handbook](#) the [Estate Business Management System](#) (EBMS) and associated Practitioner's Guidance. Other policy on access can be found elsewhere in JSP 362:

- Disposal of MOD land – [JSP 362 Chapter 4](#).
- Byelaws – [JSP 362 Chapter 12](#) and DEG Chapter 19.
- Licensed Recreational Casual Use – [JSP 362 Chapter 15](#)

0704 Information on public access to MOD sites is published on the MOD access website www.access.mod.uk. This website is the responsibility of Defence Estates (DE) Property Directorate (D Prop).

Useful information, guidance and codes on responsible enjoyment and management of the countryside can also be found on the following external websites:

- www.countrysideaccess.gov.uk for England;
- www.ccw.gov.uk for Wales;
- www.outdooraccess-scotland.com for Scotland.

SECTION 1

RESPONSIBILITY FOR THE MANAGEMENT OF PUBLIC ACCESS

- 0705 Responsibility for the development and maintenance of MOD strategy and policy including public access and related information issues lies with Defence Estates (DE) Property Directorate (D Prop) on behalf of the Secretary of State for Defence.
- 0706 MOD access policy is developed in liaison with focal points within other TLBs primarily through the Access Working Group. This Group includes representatives of the infrastructure and environmental focal points in the Royal Navy, Army, Royal Air Force and Defence Logistics Organisation and staff within the Defence Procurement Agency, Centre TLB, DE Land Management Services, Environmental Support Team and the Defence Training Estate. It meets annually or as required.

Public access management on the defence estate - general

- 0707 Legislative and policy requirements for access and recreation should be built into the management of each site. Throughout this Chapter where the term 'Head of Establishment (HoE)/ Contractor' is used this means that operational responsibility lies with the HoE where there are no Contractor arrangements and with the Contractor where such arrangements are in place.

Non-Contracted Sites

- 0708 **TLBs.** TLBs, through their respective Infrastructure/Estate Organisations are responsible for compliance with legislation and MOD strategy and policy relating to public access on their sites.
- 0709 **Heads of Establishment /Commanding Officers (HoE/CO).** HoE/COs are responsible for public access and recreation issues on their sites. This includes awareness and compliance with access and recreation legislation and related public information legislation and MOD policy. They must ensure that arrangements for access and recreation are disseminated to staff and site users, both military and civilian. HoEs are to:
- Liaise with the Defence Estate's local office who may seek the advice of an access and recreation specialist over the requirements of legislation and policies.
 - Be conversant with all activities, planned or current, that may have an impact on the public access and recreation interest of the site. Option studies, designs, specifications, tender documents and contracts must account for the requirements of access and recreation legislation and MOD policy.
 - Maintain their site asset registers/Environmental Management System (EMS)/ appropriate Estate Management Plans to cover access and recreation initiatives and/or projects and to review and update them regularly.

- 0710 Where matters relating to access on the defence estate are in conflict with MOD or national policy and legislation, HoEs must refer as appropriate to their TLB Environmental Focal Point, DE local office, DE Environmental Support Team (EST) and the DE ES&P Land & Property Policy team.

Sites managed through Contracts

- 0711 **Sponsor.** For contracted out or licenced operations such as PPP/PFIs, Prime Contracts (PCs), Landmarc Support Services or QinetiQ, the MOD Sponsor for the contract or licence has the primary responsibility for ensuring compliance with statutory estate obligations and MOD policy, including liaison over access and recreation issues and the satisfactory delivery of responsibilities.

- 0712 **Contractor.** Responsibilities include:

- Verification that they have the capability and capacity to deliver on MOD's requirement.
- Undertaking site work relating to access and recreation, including erection and maintenance of any physical structures, implementing requirements of EMS and maintaining records.
- Liaison through Site Estate Representatives or Defence Estates staff when it is necessary to engage external stakeholders, review records or collate estate information before taking action.

Role of Defence Estates

- 0713 DE Local Offices are to provide the focal point for HoEs, other Budget Holder staff, contractors and tenants on the defence estate and ensure that they are aware of their legal responsibilities for access and recreation and MOD commitments.

- They should seek specialist advice, particularly on matters relating to the implementation of access legislation from the EST Environmental Advisors (Access & Recreation) and/or other Access & Recreation Advisers.
- They must ensure that information held on access and recreation including access rights - Public Rights of Way (PROW) and other legal routes, non-statutory routes, open access and any other relevant information) is provided to the Geographical Information Office (GIO). Any changes effected within the year are to be notified to the GIO within 28 days.

Environmental Support Team

- 0714 MOD Environmental Advisers (Access & Recreation) provide advice across MOD through the ES (Estate Surveyor). The Senior Environmental Adviser (Access & Recreation) is the 'Designated Officer' for The Countryside and Rights of Way Act Parts I and II, Land Reform (Scotland) Act Part 1 and changes to statutory access opportunities. DE officers in Scotland, England and Wales may be given areas of delegation by the UK Designated Officer but overall responsibility for decisions cannot be delegated.

0715 The Access & Recreation Advisers have the following areas of responsibility:

- Act as operational advisers to D Prop for public access issues.
- Provide a focal point for advice on the development and delivery of public access and recreation activities, including related public information, across the defence estate.
- Ensure that TLB Environmental Focal Points, Units / Establishments and EAs are aware of their obligations and of any changes to policy and best practice.
- Assist in the establishment of and provide support to MOD Conservation Groups or other related groups with interest in access issues.
- Provide an operational focus for the provision of information for public access activities on the defence estate including the MOD access website.
- Provide advice and support on the education of military and civilian personnel in public access matters.
- Support the maintenance of MOD datasets of public access and recreation assets across the MOD.

Access and Recreation on tenanted land

0716 Depending upon the nature of the tenancy agreement, tenants may have responsibility for access and recreation management on areas of the defence estate. It is the responsibility of the DE local office to establish requirements at a local level, ensure that agreements accurately reflect requirements of legislation and MOD policy and provide tenants with information as appropriate.

United States Visiting Forces in the UK

0717 The principles and guidelines of this Chapter should be followed in relation to sites occupied by US Visiting Forces, although the exact detail may vary.

Northern Ireland and Overseas

0718 MOD land will meet the host nation standards. Heads of Establishment (HoE)/Contractor are to comply with the Host Nation legislation and any local policy requirements. Appropriate advice and guidance should be sought from DE.

Sites for disposal.

0719 Where a MOD site is to be disposed of the TLB transfers it to DE. Issues for access and recreation on sites to be disposed of must be pointed out by the TLB prior to transfer. Refer to [JSP 362 Chapter 4](#) on Disposals for further policy.

SECTION 2

PUBLIC ACCESS AND RECREATION POLICY

0720 The Policy in this section covers

- **Linear Access.** This includes designated public rights of way and non-statutory routes (often termed permissive paths) and other paths with agreements for public use. Where MOD is responsible and subject to defence requirements, all linear routes are to be maintained in an accessible state and available for use.
- **Open Access.** The defence estate has areas available for open access on foot. Access on horseback and pedal cycle is generally restricted to linear routes. Exceptions include Dartmoor where the Dartmoor Commons Act gives the public the right to ride on horseback (but not pedal cycle) and walk on common land, unless the right is suspended for operational reasons.
- **Access for All.** MOD will comply with relevant legislation including the Disability Discrimination Act 2005. MOD recognises the need to provide accessible and diverse access and recreation opportunities, including some provision for less able visitors. DE staff are encouraged to contact the EST Environmental Adviser (Access & Recreation) and to engage with local disability rights organisations when appropriate.

0721 **Overview of policy covered in other Chapters.**

- **Casual Use (Recreation/Commercial) and events.** The defence estate is widely used for recreational and commercial events. Refer to [JSP 362 Chapter 15](#).
- **Field Sports.** There is extensive use of the defence estate for field sports such as shooting and fishing. Licences for such activities are issued through DE local offices. See JSP 362, Chapter 15.
- **Byelaws and Trespass.** Byelaws provide a means of prohibiting unauthorised public access to areas and regulating activities where access is permitted. This includes suspension of right attached to rights of way and common land where the land is covered by MOD Byelaws that expressly permit this action. Breach of a byelaw is a criminal offence. See [JSP 362 Chapter 12](#). Certain Sites are given additional protection from trespass by the Serious Organised Crime and Police Act (SOCAP Act).
- **Health & Safety.** Public use of a MOD site invariably involves health and safety issues. These are considered in [JSP 362 Chapter 15](#) and [JSP 375](#).

ENGLAND & WALES

Linear Access

Statutory routes in England and Wales (Public Rights of Way)

0722 **New statutory routes.** The development of new statutory routes should be facilitated where this is acceptable. The DE local offices to lead on liaison with the Local Highway Authority (LHA). The EST Senior Environmental

Adviser (Access & Recreation) should be notified of all new routes. The agreement of a tenant must be obtained if the proposed route crosses the tenancy. The HoE/Contractor or tenant is responsible for making changes on the ground.

0723 **MOD responsibility for the maintenance of statutory routes.** Occupiers of land are under a statutory duty to ensure that PROW on their land are available for use by the public and free from obstruction or overhanging vegetation. This includes responsibility for structures such as stiles and gates even where they have been installed by a third party such as the LHA. The responsibility for identifying work required, undertaking such work, maintaining records of routes and undertaking annual condition assessments lies with the HoE/ Contractors/tenants. The responsibility to ensure this is being done lies with DE through staff in the local office.

0724 **Highway Authority responsibility for maintenance.** Where the highway is maintainable at public expense (as most are) ownership of the highway is vested in the LHA. LHAs have a statutory duty to maintain the surface of the highway, maintain bridges over natural watercourses, provide signage and ensure that the route is free from obstructions. It is the responsibility of the ES to liaise with the highway authority to establish local responsibilities and to communicate this to the HoE/Contractor.

0725 **Changes to existing statutory routes.** The creation, diversion or extinguishment of public rights is a legal process that can be time consuming and expensive. The choice of legislation to effect changes is complicated and applications can only be made after a case has been agreed by the DE local office in conjunction with the HoE, and investigated by the Designated Officer [EST Senior Environmental Adviser (Access & Recreation)] who will seek advice from MOD Legal Services as necessary.

- The temporary diversion of Public Rights of Way (PROW) can be carried out by a Local Authority through an Order under the Highways Act. Responsibility for effecting any changes on the ground and reinstating the route lies with the HoE/Contractor. Responsibility for liaising with the local authority lies with the DE local office.
- The Secretary of State for Transport has powers under The Land Powers (Defence) Act 1958 and the Highways Act 1980 for the creation, closure or diversion of footpaths and other PROW. The use of these powers is likely to lead to a Public Inquiry, chaired by a Planning Inspector who makes recommendations to the Secretary of State on the matter.
- The Military Lands Acts 1892 and the Defence Lands Act 1842 contain powers through which the Secretary of State for Defence can make changes to PROW.

Non-statutory routes

0726 **New non-statutory routes in England and Wales.** Where the provision of a statutory route is not considered appropriate, the provision of non-statutory route can be considered. The DE local office is responsible for liaison between MOD, the LHA and other external bodies and ensuring that a written agreement is drawn up that sets out the status of the route and the period for which it will be available for public use.

- 0727 Maintenance of non-statutory routes. Responsibility for the maintenance of the physical route and all associated structures, signs and notices lies with the HoE/Contractor/tenant unless otherwise agreed at a local level for example a maintenance agreement with an external partnership. The DE local office is responsible for ensuring that maintenance is undertaken.

Protection of MOD Rights and Interests and Annual Closure of MOD Roads and Footpaths Used by the Public in England & Wales

Deposition of maps of statutory routes

- 0728 This procedure covers land held freehold in England and Wales in the name of the S of S for Defence that comes under the terms of Section 31(6) of the Highways Act 1980 (as amended). This enables landowners to deposit a map of the land and a statement with the LHA indicating routes that have been dedicated as Public Rights of Way (PROW). Other non-statutory routes are then not at risk at being deemed to have been dedicated as PROW. ESs are to liaise with HoEs/ Contractors in the production of these statements and are to deposit maps and statements every ten years even where there is no change from the previous map and statement. The maps/statements should be signed on behalf of the S of S for Defence. DE local offices are to inform the HoE that this has been done and maintain records.

Guarding against deemed dedication as a public right of way by Annual Closure

- 0729 For all MOD land, other than that held freehold in England and Wales in the name of the S of S for Defence, all ways, 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 so as to ensure that no such public rights of way can be established. The closure should be arranged to take place during a day when use of the way by the public is to be expected but limited i.e. not in peak season. The closures are to be arranged by HoEs in conjunction with the DE local office. It is MOD policy to submit a separate plan identifying these non-statutory routes with the s31(6) deposition (as amended by CROW Act 2000).
- 0730 Where adjoining landowners use these ways for access, the annual closure should be negotiated and arranged by the ES.
- 0731 See [JSP 362 Chapter 11](#) for policy relating to trespass on MOD property and [JSP 362 Chapter 14](#) on encroachment.

Natural England 'Discovering Lost ways' Project

- 0732 The Natural England (NE) 'Discovering Lost ways' Project started in 2005. It is attempting to establish if there are PROW that have fallen into disuse that potentially provide a useful addition to the existing path network and should be re-instated. It is possible that routes will be discovered on MOD land. Although it now appears [Mar 08] that NE will reduce funding, DE D Prop will establish a procedure with NE through which discoveries on MOD land will be brought to our attention. The ES will determine if objections or closures will have to be raised or effected.

Changes to existing non-statutory routes

- 0733 Non-statutory routes may be extended, diverted or extinguished either temporarily or permanently subject to the conditions of any agreement relating to them. It is the responsibility of the ES to lead on liaison as required with all appropriate local bodies such as the LHA, Local Access Forum and any users or user groups who were formally involved in the development of the route. It is the responsibility of the HoE/Contractor to effect any changes on the ground and to inform the public.

Depiction of non-statutory routes on maps available to the public

- 0734 Such routes may be depicted upon maps available to the public. It is the responsibility of the HoE/Contractor in conjunction with the DE local office to decide whether routes at their site can be depicted. Notification to the map publisher is to be made through the Designated Officer and OS Liaison Officer, DG Ops EST Information, Defence Estates, Westdown Camp, Tilshead, Salisbury, SP3 4RS. Tel: 01980 674708.

Disposal of MOD land and effect upon statutory and non-statutory routes

- 0735 Where a site is to be disposed of, responsibility for the site passes to DE when it is vacated by the TLB.
- Statutory routes. All statutory public rights of way that existed prior to MOD occupation of the land are to be re-instated. It is the responsibility of the DE Disposals team to ensure that this is carried out.
 - Non-statutory routes. All non-statutory routes cease to exist upon disposal of the land. The DE Disposals team are to ensure that potential new land owners are aware of such routes to enable them to consider future provision. They are also responsible for ensuring that the public are informed and changes are effected on the ground.

Open Access in England & Wales under the Countryside and Rights of Way Act.

Public Rights under the Act

- 0736 Part I of the [Countryside and Rights of Way Act 2000](#) (CROW Act 2000) contains provisions for statutory rights of access in England and Wales on foot to open country, registered common land and land dedicated for open access. This land was been mapped in England by the Countryside Agency (now part of [Natural England](#)) and in Wales by the [Countryside Council for Wales \(CCW\)](#). In so far as MOD is responsible and subject to defence requirements, statutory rights of access are to be accessible, and restrictions minimised.
- 0737 Schedule I of the CROW Act lists categories of 'excepted land' to which the access rights will not apply even if they are mapped as open country or registered common land. All land subject to military byelaws is 'excepted land'. The other category of 'excepted land' of particular relevance to MOD is that of registered airfields.
- 0738 All other eligible land on the defence estate will be subject to the CROW Part 1 access rights and is to be managed in accordance with the legislation.

Exclusions and restrictions may apply to areas of the defence estate where access must be restricted on grounds of safety or security as outlined below.

Eligible activities under the Act

- 0739 **Activity by the public.** The Act affords the public rights for the purposes of 'open air recreation'. Eligible activities are for rights on foot and including walking and climbing. Other activities, such as camping or horse riding, are not permitted under the Act, although they may be permitted locally or through other legislation applying to the land ('higher rights').
- 0740 **Military training and access rights.** The access rights afforded to the public under CROW Part 1 do not apply to any activity undertaken by a serviceman or woman in the course of their duty. This includes Reserve and Cadet Forces. An employee (including a cadet) is not considered to be a member of the public whilst undertaking their duties on behalf of the Department. An employee cannot therefore be capable of participating in the permitted forms of recreation under the Act. Before military or adventurous training takes place off the defence estate the Unit Commander must ensure compliance with rules governing Training on Private Land (TOPL).

Mapping of Access Land on Ordnance Survey Maps

- 0741 The Ordnance Survey (OS) shows land available for public access on the 1/25,000 Explorer Series. DE, through the Designated Officer and the OS Liaison Officer (DE DG Ops EST Information, Defence Estates, Westdown Camp, Tilshead, Salisbury, SP3 4RS, Tel: 01980 674708) is responsible for defining areas to be depicted and for providing data for these maps.
- 0742 Any MOD land mapped by [Natural England](#) or [CCW](#) as access land but subject to military byelaws is excepted from the Act under Schedule 1. It will not be represented in the "yellow wash" access symbol on published maps.
- 0743 Any MOD land mapped as access land that is not subject to byelaws is to be shown by the yellow wash access symbol, except where it can be demonstrated that this depiction poses a threat to public safety or security as approved by the Designated Officer and a Section 28 Direction for restriction or exclusion is proposed or in place.
- 0744 A new 'Managed Access' symbol of open red triangles has been developed to indicate access on areas of MOD Byelawed land where there is substantial public access.

Exclusions and Restrictions under the CROW Act

- 0745 Land mapped as open country or registered common land and which is not 'excepted land' is 'CROW access land' unless it has been identified as having 'higher rights' e.g. Commons. The CROW Act provides for landowners (and tenants if under Farm Business Tenancies) to exclude or restrict access to CROW land through a direction process. Any person with a legal interest in the land may apply for a direction to exclude or restrict access to the relevant authority. The use of statutory restrictions on the defence estate under the provisions of the CROW Act 2000 is to be kept to a minimum. The exclusions and restrictions under CROW are:

- Section 22 allows an owner or where applicable, a tenant, to exclude access for up to 28 days per year by notifying the relevant authority;
- Section 23(1) that allows grouse moor owners to exclude dogs from moorland used for the breeding/shooting of grouse for up to 5 weeks per year for 5 years by notifying the relevant authority.;
- Section 23(2) that allows the owner or tenant (but not both) to exclude dogs from enclosures used for lambing for up to six weeks each year by notifying the relevant authority.
- Section 24 restriction of access for land management purposes is only available on application;
- Section 25 restriction for the purposes of fire prevention where there is a risk of fire is only available on application.
- Section 25 restriction for the purposes of public safety, is only available on application.
- Section 26 for the purposes of nature conservation and heritage. Landowners or those with a legal interest in the land cannot apply for these restrictions. Restrictions are made by the relevant authority usually after advice from Natural England/CCW for nature conservation and English Heritage/Cadw for heritage;
- Section 28 enables the S of S for Defence to restrict access either temporarily or permanently for the purposes of national security or defence. This is subject to local consultation.

Discretionary Restrictions under Section 22 of the CROW Act (tenanted land)

- 0746 Where areas of the defence estate are under a full tenancy agreement, the right to use such restrictions lies with the tenant and not MOD. DE local offices are to liaise with tenants and ensure that they are using the system correctly.

Applications for restrictions under Section 25 by owners of former MOD land

- 0747 Land owners have been seeking restrictions on the grounds of public safety because their land was formerly in defence use and they consider that an unacceptable risk from land contamination exists. MOD has no formal role in this process but collaborates with interested parties over the provision of information. Explosives Ordnance Disposal (EOD) records are used to support these applications and EOD officers are empowered to make judgements over the level of risk to public safety.

Directions under Section 28 of the CROW Act for Defence purposes

- 0748 The S of S's powers under the Act have been delegated to DE as the competent authority and to D Prop within DE. D Prop has delegated the operational decisions over s28 restrictions to DG Ops who has appointed the Senior Environmental Adviser (Access & Recreation) as the Designated Officer. The powers are only to be used where access management measures are not sufficient to ensure that military training or secure defence activities can proceed. All requests for s28 restrictions are to be submitted to

the Designated Officer. Where a disagreement occurs over the use of these powers, the matter should be raised with D Prop.

- 0749 S28 directions may be short term (<6mths), long term (>6mths) or indefinite (those directions that cause information to be removed from the relevant website and Ordnance Survey maps). The directions may be full (with confirmed dates) or outline (where dates may not have been confirmed).
- The Designated Officer is required to provide written information to the relevant authority on such directions and ensure that the Regulations are complied with. If the Designated Officer considers that it is against the public interest to consult on an indefinite direction, the Local Access Forum is to be informed of this decision as soon as is practicable.
 - Where an indefinite s28 direction is necessary because there are deficiencies in the existing byelaw areas, the Designated Officer is to provide details to the Byelaw Review Team, Blandford House, Farnborough Road, Aldershot, Hampshire, GU11 2HA.
 - There is a statutory requirement to review all long term and indefinite s28 directions within 5 years. The Designated Officer will ensure that all such s28 directions are reviewed within the statutory timescale and a report produced in accordance with the regulations.
- 0750 **Records of CROW Directions.** The Designated Officer is required to maintain records of restrictions/exclusions and to report on them to the Access Working Group and to the D Prop upon request, for the purpose of monitoring/ auditing and for responses to queries.
- 0751 **Dedication of MOD freehold or leasehold land as 'CROW Access Land'.** S16 of the CROW Act enables a landowner to dedicate land as 'access land' for open access by the public. Such dedication is in perpetuity and is not considered to be compatible with the flexibility needed for changes in military training. MOD freehold or leasehold land will not be dedicated as 'access land'.
- 0752 **Consent to dedicate non-MOD land as access land.** There may be occasions where the owner of private land used by MOD wishes to dedicate it as 'access land'. This includes the freehold estate of the Forestry Commission. The consent of MOD as occupier is required. It is MOD policy to consent to such dedications unless particular circumstances are determined at a local level. Policy Instructions 21/2004 and 03/2002 regarding use of Forestry Commission land refer. PI 21/2004 relates to England only. All requests for consent to dedicate are to be handled by the Designated Officer and the local DE office.
- 0753 **Disposal of byelawed land.** When MOD land mapped as open country or registered common land but subject to military byelaws or subject to an indefinite s28 Direction is sold, the byelaws lapse and the s28 Direction must be revoked. The land is therefore sold subject to CROW access provisions. MOD has agreed to provide Natural England and CCW with advanced notice of such land being sold. It is the responsibility of the DE Disposals team to ensure that sale particulars are correct and to liaise with the Designated Officer over the revocation.

- 0754 **Extension of Byelawed land areas on MOD land.** It is not MOD policy to extend Byelaws over existing areas of CROW access land unless there is a clear operational requirement for the use of the powers granted by byelaws, for example for a firing range. Any access rights under CROW will cease to apply after the imposition of byelaws as the land will become 'excepted land' and therefore exempt from the provisions of the Act. Responsibilities for new byelaws are set out in [JSP 362 Chapter 12](#).

SCOTLAND

Linear Access in Scotland

Protection & Maintenance of routes in Scotland

- 0755 **MOD Responsibility.** The ES is to ensure that all routes on the defence estate are open and useable and to lead on liaison with the local authority, the Local Access Forum and other parties. The HoE is to be involved in any decision process. Responsibilities for identifying work required to be undertaken, causing such work to be undertaken, maintaining records of routes and undertaking annual condition surveys lies with the HoE/Contractor.
- 0756 **Local Authority Responsibilities.** The Local Authority (LA) has a duty to maintain a Right of Way/core path and keep such a path free from obstruction or encroachment and provide the public with directions to, or with an indication of the extent of such a path.
- 0757 **Core Paths.** Under the [Land Reform \(Scotland\) Act 2003](#), LAs and National Park Authorities (NPAs) have a duty to draw up a Core Path Plan by 9 Feb 2008. Core paths may include Rights of Way (ROWs), paths, footways, footpaths, cycle tracks and other routes, waterways or other means by which persons may cross land. The core path plan will consider the likely usage and desirability of paths, and landowner interests. Liaison with the LA over such plans and input into the process can be done through the Local Access Forum (LAF). All core path discussion must include the Designated Officer as these paths will form the basis of formalisation of statutory routes in Scotland.
- 0758 **Changes to routes in Scotland.** New routes and changes to existing routes may be made in Scotland. HoEs/Contractors are to contact the DE local office who will liaise with Designated Officer before proposals are made to the LA.

Open Access in Scotland under the Land Reform (Scotland) Act 2003

- 0759 Part 1 of the LR(S)A refers to the statutory rights of access, which commenced on 9 Feb 2005. The Act is supported by [the Scottish Outdoor Access Code \(SOAC\)](#) drawn up by Scottish Natural Heritage (SNH) and further information can be found in this document and through the [BMS](#) and supporting best practice.

Impact of Land Reform on access to the defence estate

- 0760 Every person has “access rights” on, over and under all land and inland water in Scotland except that land which is specifically excluded by the legislation;
- 0761 **Land over which access rights are not exercisable.** Statutory exclusions apply at ‘airfields, military bases and installations’ which is interpreted as including barracks, workshops, depots etc. Training areas, bombing and live firing ranges are not considered to be military bases or installations.
- 0762 **Land subject to military byelaws.** The [SOAC](#) makes specific reference to live firing ranges and training areas where access rights can be controlled when military training takes place. In terms of the Act, the landowner (MOD) is carrying out a “land management operation”. MOD land subject to military byelaws is excepted from the provisions of the Act during periods of time when the land is being used for a military purpose. This exclusion is only operable where the health and safety risk to the public or service personnel requires it. The exclusion is generally shown by the deployment of red flags or lamps or warning signs. When the land is not being utilised for military purposes, access rights will apply.
- 0763 **Woodland.** An amendment passed in Feb 2005 clarified that access rights apply to areas of woods, forests and other places in which trees are planted other than areas where seedlings and saplings are being grown. This applies to woodland being grown for defence purposes.

Eligible activities under the Act

- 0764 **Activity by the public.** The access rights can only be exercised by the public for recreational, some educational activities and certain commercial purposes and for crossing land and water provided the user acts responsibly. Access rights are further explained by the [SOAC](#). Activities include pursuits such as walking, cycling, horse riding and canoeing; family and social activities; pastimes such as photography and sight seeing; participation in recreational and educational events, including caving and paragliding; wild camping and the lighting of open fires. Access rights do not apply to any kind of motorised activity (unless for disabled access) or to hunting, shooting and fishing.
- 0765 **Military training as an access activity.** Although military training is accepted as a ‘land management operation’ under the Act it is not considered to be an eligible activity for the right of access to non-defence land. Unit Commanders must comply with rules for adventurous training or Training on Private Land.

Managing open access on the defence estate in Scotland

- 0766 The Designated Officer is to be consulted on all issues on open access on the defence estate in Scotland
- 0767 The Act gives the public statutory rights to recreational activities that have, until now, been licensed. DE local offices are responsible for ensuring that

licences for casual use of the estate in Scotland are only issued for activities that are now not permitted under the Act. Previous revenue streams associated with these activities no longer exist.

- 0768 MOD policy is that, where it is safe to do so, land will be available for public access. The Act gives force to the raising of red flags as a means to warn the public of health and safety implications of MOD activities.
- 0769 It is acceptable to require people to avoid a particular area whilst military activity is being undertaken. MOD, as a responsible landowner, is required to ensure that a suitable risk assessment has been carried out in order to identify any significant risks to the public and any precautions that need to be taken. This must be actioned by the site users in a reasonable manner, for the minimum time and area required for the purposes of public safety. Military site users must inform potential visitors of alternative routes and explain why the original route cannot be used.
- 0770 In certain cases, the only way to prevent or adequately control the risks may be to manage access by the public through the use of red flag procedures. MOD Policy set out in [JSP 403](#). This states that red flags/lights are to be used only during live firing exercises or where a threat resulting from that firing still exists. Exceptions only occur where the byelaws specifically require the flying of flags/display of lights at other times or under special circumstances determined by the chain of command in consultation with DE. Access should be available when the flags are lowered or the lights extinguished.

Byelaw Review requirement under the Land Reform (Scotland) Act

- 0771 It is the duty of every authority having power to make byelaws, which relate to public access to land where access rights are exercisable, to review its byelaws within 2 years (i.e. by February 2007) and subsequently to modify any byelaws that are inconsistent with the provisions of the LR(S)A. A review of MOD byelaws in Scotland has been undertaken and certain byelaws will be revised by the DE Byelaw Review Team.

Directions for the Purposes of Defence or National Security (Section 104 Order)

- 0772 There are powers in the Scotland Act 1998 that permit the removal of an area of land from particular Scottish legislation. This could be used to suspend the Land Reform (Scotland) Act in particular places. MOD policy is that this should only be considered when all other access management measures such as signs, information and safe routes are not sufficient to enable safe military training to take place. All queries over the use of s104 Orders are to be made to the Designated Officer, who will raise the issue with D Prop and the MOD Legal Adviser.

NORTHERN IRELAND & OVERSEAS

- 0773 Public access to defence land is very limited in Northern Ireland & Overseas. HoEs/ Contractors are to contact DE for further guidance on particular local arrangements and legislation.

SECTION 3

DIRECTIONAL SIGNS AND INFORMATION NOTICES (GENERAL)

Overview

- 0774 **Requirement.** It is necessary to erect signs or notices on MOD land to warn, direct or inform members of the public. [The Occupiers Liability Acts \(1957 & 1984\)](#) and [Occupiers Liability \(Scotland\) Act](#) place duties upon the 'occupier' (in England & Wales) or 'occupier of premises' (in Scotland) to act responsibly towards both invited and uninvited users, in other words to both visitors and trespassers. Directional signs (e.g. way markers) and information notices are not subject to statutory regulation but many other signs are, and this is covered in a number of MOD policy documents.
- 0775 **Directional signs.** These direct the public along Public Rights of Way (PROW) and other legal routes such as core paths in Scotland, as well as those routes where MOD permits access on a non-statutory basis. This class of signs includes the signs that indicate the start and end of open access under the CROW Act (England & Wales) and indication of the extent of military land for the LR(S) Act (Scotland).
- 0776 **Other sources of information.** Rules governing the following signs and notices and public information boards are NOT covered in this Chapter:
- Safety signs to be erected on land used for military purposes. Rules are set out in [JSP 403 Handbook of Defence Land Range Safety](#) (policy in Vol. 1 and detail in Vol. 2) – <http://www.defence.mod.uk/jsp403/JSP403vol2web.pdf> and in the DEG Chapter 21 Signs and Notices.
 - Other safety signs can be found in [JSP 375 Vol 2 Leaflet 44](#).
 - Road Traffic Signs are covered in the Traffic Sign Regulations and General Directions 2002 – [SI 2002 No 3113](#). Where MOD roads are open to the public but are not adopted and maintained by the local highway authority, JSP 403 Vol 2 states that the British road traffic signs will be used
 - Byelaws notices are set out in the Defence Estates Guide Chapter 19 - Byelaws.
 - Conservation. Designated sites, sites of nature conservation importance and woodland importance are covered in [JSP 362 Chapter 5](#).
 - Archaeology. Signage relating to sites of archaeological importance and listed buildings are covered in [JSP 362 Chapter 5](#).
- 0777 **Priority.** It is MOD policy to avoid a proliferation of signs across the defence estate. Safety signs relating to range danger areas and other military hazards take precedence (see [JSP 403](#)). However, such safety signage is required to comply with other legislation in so far as is possible. Other statutory

requirements for signage are to be fulfilled and take precedence over non-statutory signage. Further details are in Policy Instruction 22/2006.

- 0778 **Information Notices relating to public access and recreation.** Notices should be placed to support the management of public access at sites. HoEs/Contractors should consider establishing Interpretation Boards which provide information on access as well as details of the habitat and heritage features. Such notices serve to guide the visitor and enhance their experience and are in line with the policy in the Defence Estate Strategy. Further details are in Policy Instruction 22/2006.

General information relating to all signs and notices

- 0779 **Planning and Sustainability Appraisal.** There may be a requirement for planning permission/sustainability appraisal for the provision of information on the defence estate. Guidance should be sought from the ES at the earliest stage possible in the provision of information who may seek clarification from the Local Planning Authority.
- 0780 **Siting and Legibility.** DE through the ES is responsible for leading on discussions with HoEs/Contractors to agree the number and position of directional signs, information notices and other on-site information. Text should be clear and signs should be positioned where they can be easily read, away from potential obstructions such as growing foliage or gates which hide notices when either open or shut. As far as possible the aim should be uniformity of appearance and avoidance of a large number of signs in one place.
- 0781 **Design and Wording.** MOD will comply with the statutory obligations on directional signs and information notices placed upon it by Acts of Parliament, Statutory Instruments, and Approved Guidance and Codes of Practice
- 0782 **Language.** Directional Signs and Information Notices within the UK and overseas must comply with relevant language acts such as the Welsh Language Act in Wales. Text in different languages should be equal in terms of size, format, quality, and prominence.
- 0783 **Replacement of signs and notices.** Any signs currently displayed which fail to satisfy the Health and Safety (Safety Signs and Signals) Regulations 1996, or other statutory requirements including the CROW Act, LR(S)A and accessibility legislation, must be changed to the new design within the timescale allowed by the legislation where specified. Where the deadline for compliance has passed, every effort is to be made to replace the non-conforming signs as soon as possible. Signs that become illegible through weathering or damage must be replaced.
- 0784 **Removal of redundant signs and notices.** HoEs/COs should carry out an audit to establish if signs are still legal or required. Redundant directional signs and information notices (e.g. when a period of restriction or exclusion to public access has ended) are to be removed as soon as practicable.

DIRECTIONAL SIGNS AND PUBLIC INFORMATION IN ENGLAND AND WALES

Public Rights of Way (PROW) Signs

- 0785 **Signposting from the metalled road.** The local highway authority (which may have delegated its powers to the National Park Authority) has a statutory duty to signpost PROW where they leave a metalled road. Highway Authorities may be relieved of this duty if considered unnecessary and with agreement of the parish or community council. Signposts must indicate the nature of the way. It is the responsibility of DE to liaise with the local authority over requirements and to agree the positioning of signs.
- 0786 **Waymarking.** Other directional signs along the route are often termed 'waymarks'. HoEs/Contractors are to contact their DE local office who will liaise with the local highway authority to ensure that signs satisfy the statutory requirements and maintain the safety of the public as they pass across the defence estate.
- 0787 **Standards for Signs on Highways and PROWs.** [The Traffic Signs Regulations and General Directions 2002](#) set out the requirements for directional signs and waymarks on highways and PROW. There is some flexibility in type and colour of directional sign. The waymarks provided by the local highway authority are to be used wherever possible or similar designs adopted that reflect local site needs or 'corporate branding'.
- 0788 **Non-statutory routes.** HoEs/Contractors are responsible for installing and maintaining appropriate signs and notices for non-statutory paths or other permissive routes. This must be done in liaison with the DE local office who can advise on the development of such signs and notices. The design of directional signs for permissive routes is subject to local variation. Where appropriate, such signage will conform to that used by the local highway authority. Sites have the discretion to provide additional 'corporate branding' directional signs and information notices and this is encouraged particularly in areas of significant recreational value.

Open Access Signs.

- 0789 **CROW Act Part 1 - The Open Access Symbol.** An open access symbol has been developed that can be displayed at the entrance and exit to land on the defence estate where open access is available. Such markers are available from the access authority (the local authority or National Park Authority). Guidance on use has been developed by Natural England (NE) and CCW. Responsibility for the erection, maintenance and removal of such symbols lies with the HoE/Contractor who is to liaise with their ES
- 0790 **CROW Part 1 - Informing the relevant authority of restrictions.** The relevant authority is NE (England), CCW (Wales), NPA (National Parks) or Forestry Commission (dedicated woodland).
- 0791 Natural England is required to make details of any exclusions/restrictions available on a website maintained by them unless it is considered that it is not in the public or defence interest that the information should be disclosed.
- 0792 In Wales, the relevant authority (CCW or the NPA in National Parks and Forestry Commission on dedicated land they own) is to make information available on a website.
- 0793 **CROW Part I - Informing the public of statutory restrictions.** MOD must inform the public of restrictions on entering the land. This can be done either verbally or by the erection of notices. Appropriate notices should be removed

as soon as the restriction ends. Responsibility for the erection and maintenance of such notices lies with the HoE/Contractor who is to liaise with DE. It is the responsibility of DE through the ES to ensure that appropriate notices are provided and to undertake any planning of such notices. The Designated Officer holds templates for CROW Restrictions notices.

DIRECTIONAL SIGNS AND PUBLIC INFORMATION IN SCOTLAND

- 0794 **Rights of Way and Core Paths in Scotland.** In Scotland, the local authority or NPA has discretionary powers for route signage, though other organisations may be involved. It is the responsibility of the DE to liaise with the local authority to ensure that there are sufficient signs to satisfy the requirement to maintain public safety. It is the responsibility of the HoE/Contractor to install and maintain such signs where it has been determined that MOD will provide such signs.
- 0795 **Other routes.** The HoE/Contractor is responsible for installing and maintaining appropriate signs and notices for permissive paths or other routes. This must be done in liaison with the ES who can advise on the development of such signs and notices. The design of directional signs for routes is subject to local variation. Where appropriate, such signage will conform to that used by the local authority. Sites have the discretion to provide additional 'corporate branding' directional signs and information notices and this is encouraged particularly in areas of significant recreational value. DE local offices are encouraged to seek advice from the EST.

Open Access in Scotland

- 0796 **Informing the public.** Careful consideration must be given to managing access and to the provision of sufficient information to comply with the legislation. It is illegal to erect signs and notices that restrict access without a justifiable reason and adequate explanatory information. HoEs/Contractors in liaison with the DE local office are responsible for undertaking a risk assessment to determine the level of access signage and notices required at a site. Refer to [JSP 403](#) and apply to dry training areas as well as to range danger areas.
- 0797 Responsibility for the erection and maintenance of such signs and notices lies with the HoE/Contractor. It is also their responsibility to maintain records of such provision and audit the provision. It is the responsibility of the ES to liaise with the HoE to ensure that appropriate signs and notices are provided, to support the planning for such signs and notices and to lead on liaison with the appropriate authorities. The Designated Officer must be contacted to discuss and agree such provision where such information is being provided for the first time.

Northern Ireland and Overseas

- 0798 HoEs/Contractors are to contact DE advice and guidance.

SECTION 4

STAKEHOLDER LIAISON

Internal Forum

- 0799 The Access Working Group is the internal MOD forum for issues affecting access and recreation on the defence estate and advising ES&P on policy. The group is chaired by DE D Prop and consists of MOD TLB representatives who deal with aspects of access and recreation. It reports through the channels outlined in its Terms of Reference.

External Forums

- 07100 MOD is committed to working with Statutory Bodies and other stakeholders to identify address and take forward issues relating to public access and associated public information on the defence estate. Overarching responsibility for the co-ordination of external liaison on access and recreation lies with D Prop.
- 07101 Liaison with external stakeholders takes place through bilateral meetings, Government sponsored Working Parties and the MOD's Access and Recreation Focus Group and Advisory Groups in Wales and Scotland and the forums noted below.

England

- 07102 **National Countryside Access Forum.** The national advisory forum on access and recreation. MOD has representation as an Observer on the National Countryside Access Forum. Representation is through D Prop and should include attendance by the Designated Officer.
- 07103 **Local Access Forums (LAF).** DE Regional Offices or equivalent must be aware of the LAFs in their region and maintain a record of them. LAFs act as statutory advisers to Appointing Authorities and to other bodies having duties under Part I of the Act on the improvement of public access to land for the purpose of open-air recreation and the enjoyment of the area. LAFs also have a role in evaluating wider recreation and access provision across an area, for example, integrating provision for access and all forms of open-air recreation to land and water with transport, tourism, health and public information.
- 07104 **LAFs in England and Wales.** The CROW Act places a duty on each local highway authority or, where there is a National Park, the National Park Authority to establish advisory bodies known as LAFs. Joint LAFs can be set up between two or more appointing authorities. Appointing authorities are required to ensure a reasonable balance between the interests of users of local rights of way or the rights of access under Part I of the Act and of owners and occupiers of access land or land over which local rights of way exist/subsist. LAF members can be members of organisations such as MOD.

- 07105 **MOD Membership of LAFs.** Official guidance in England from the Secretary of State for Environment, Food and Rural Affairs states that *'the chair, with the agreement of the vice-chair, may invite observers to participate in a meeting of the local access forum. Observers might be drawn from, for example, Defence Estates (where there are significant military training estates in the forum's area)'*.
- 07106 **MOD/DE Representation on LAFs.** Where there are significant public access opportunities on the defence estate, DE's Regional Heads of Land Management Services are required to consider whether a representative should apply for LAF membership or attendance as observer. Any DE/MOD representative on LAFs must be approved by the DE Regional Head of Land Management Services or equivalent, and must be familiar with the legislation and MOD policy on public access. The MOD representative must feed back information to the Designated Officer.
- 07107 **DE Staff as full LAF members.** The named person, not the organisation, is appointed as a LAF member. Staff must make a commitment to attend meetings. Deputies can only attend as an observer at the discretion of the chair. Members must declare their interests (i.e. MOD employee) at meetings and may be required to be considered as an observer if an issue over MOD land is being considered. MOD staff may undertake the role of chairperson or vice-chair as a member of the LAF but not the role of secretary.
- 07108 If attendance is not appropriate because of the low level of public access to the estate, DE local offices should consider requesting copies of the LAF agendas and minutes from the local authority.
- 07109 **Expenses.** Attendance at LAF meetings is official duty and officers should claim expenses under usual MOD procedures and not from the LAF.

Wales

- 07110 **National Access Forum for Wales.** The national advisory forum on access and recreation. MOD has representation at observer status on the National Countryside Access Forum. DE D Prop may delegate this to the Designated Officer and/or DE staff responsible for land management in Wales.
- 07111 **Local Access Forums (LAF).** As for England with minor variations on the establishment, operation and membership as set out in the Countryside Access (Local Access Forums) (Wales) Regulations 2001.

Scotland

National Access Forum in Scotland

- 07112 This body brings together all relevant interests and has a broad advisory role, helping SNH to keep the Scottish Outdoor Access Code under review and advising SNH and others on a wide range of other matters relating to the new legislation. The Forum will also support local access forums. DE Rosyth provides a full corresponding member on the National Access Forum.
- 07113 An LAF consists of such persons as are appointed to it by the LA/NPA who ensure reasonable representation in the forum including representatives of the owners of land in respect of which access rights are exercisable or on which there is a core path. This includes MOD.

- 07114 The LA/NPA has a duty to establish a local access forum for its area for the following functions: Advise the LA and other persons or bodies consulting the forum on access rights, rights of way and core path plans; offer assistance to parties in any disputes about access rights, rights of way, core path plans and the use of core paths.
- 07115 **MOD/DE representation on LAFs in Scotland.** Representation on LAFs is encouraged where there are significant opportunities to access on the defence estate in Scotland. Any DE/MOD representative on LAFs must be approved by the DE Regional Head of Land Management Services or equivalent, and representatives must be familiar with the legislation and MOD policy on public access. The MOD representative must feed back information to the DG Ops Access focal point. This will also enable feedback for the National Access Forum.

Northern Ireland and Overseas

- 07116 HoEs/Contractors are to contact DE advice and guidance.