

PURPOSE AND APPLICABILITY

The MOD has a huge and varied estate, much of which is open to Public Access and Recreation. This leaflet defines MOD Policy covering Access and Recreation on the Defence Estate

DOCUMENT HISTORY

Previous Versions	Publication Date

CONTACT POINT

Job Title/Email	Phone
Senior Access & Recreation Advisor	

GLOSSARY

Abbreviations

ART	Access & Recreation Team
CROW	Countryside & Rights of Way Act 2000
DIO	Defence Infrastructure Organisation
DO	Designated Officer
ESC	Environmental Support & Compliance Team
HA	Highways Authority
HoE	Head of Establishment
LR(S)A	Land Reform (Scotland) Act 2003
MCA	Marine and Coastal Access Act 2009
MOD	Ministry Of Defence
PROW	Public Right Of Way

Terms and Definitions

Linear Access

Linear Access includes designated public rights of way 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. 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 applies to most forms of non-motorised recreational access.

Coastal Access

Coastal Access refers to land open to Coastal Access under the Marine and Coastal Access Act 2009

POLICY

Responsibility for the delivery and maintenance of MOD policy, including Public Access and Recreation, lies with MOD Fin Mil Cap.

MOD Policy on public access and recreation states a '*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)

The Defence Infrastructure Organisation Environmental Support and Compliance Access and Recreation Team (DIO ESC ART) is responsible for ensuring that all policy is adhered to.

The DIO Senior Access and Recreation Advisor is the Designated Officer on behalf of the Secretary of State for Defence for all matters relating to Access and Recreation Policy delivery and should be consulted on all matters relating to Access and Recreation on the MOD Estate.

LINEAR ACCESS (England and Wales)

Statutory Routes (PROW)

MOD has a statutory duty to keep all PROW on the Estate available for use by the public and free from obstruction.

Any changes to existing statutory routes should be raised by the DIO local office and investigated by the DO.

New statutory routes should be facilitated where acceptable and where fitting with the MOD Policy as stated above. The DO is to be informed of all new routes.

Protection of MOD Rights and Interests and Annual Closure of MOD Roads and Footpaths

Under Section 31(6) of the Highways Act 1980, MOD as a landowner should deposit a map of the land and statement with the HA indicating routes that have been dedicated as PROW. This aids protect against other non-statutory routes being deemed to have been dedicated as PROW. These maps and statements are to be deposited with the HA every ten years, even when there has been no change to statutory routes in that period. Maps are to be signed on behalf of the Secretary of State for Defence.

For all MOD land, other than that held in freehold in England and Wales in the name of 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 PROW can be established. It is MOD policy to submit a separate plan identifying these non-statutory routes with the s31(6) deposition as mentioned above.

See separate leaflets within this JSP for policy relating to Trespass on MOD Property and Encroachment.

Non-Statutory Routes

If statutory route provision is not considered appropriate, the provision of non-statutory routes may be considered. The DIO local office is responsible for all liaison between MOD, HA and other external bodies and for drawing up any access agreements relevant to the route.

LINEAR ACCESS (Scotland)

Statutory Routes (PROW/Core Paths)

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

Any new routes or changes to statutory routes, for example as a result of Core Path Plan reviews, are to be brought to the attention of the DO for investigation.

OPEN ACCESS (England and Wales)

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 open country, registered common land and land dedicated for open access. In so far as MOD is responsible and subject to defence requirements, statutory rights of access are to be accessible and restrictions minimised.

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 also registered airfields.

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

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

OPEN ACCESS (Scotland)

Part 1 of the Land Reform (Scotland) Act 2003 refers to the statutory rights of non-motorised access on, over and under all land and inland water in Scotland except that land which is specifically excluded by the legislation. 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 a separate leaflet within this JSP.

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

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

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 should 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 AND OVERSEAS

Public Access to Defence land is very limited in Northern Ireland and Overseas.

HoEs are to contact DIO ESC ART for further guidance on local arrangements and legislation.

COASTAL ACCESS

Part 9 of the Marine and Coastal Access Act 2009 (MCA) aims to improve and provide public access to the English coastline by public rights along the English coast for open-air recreation on foot. It enables existing coastal access to be secured and improved and new access to be created in coastal places where it did not already exist.

New statutory routes, provided under the 2009 Act, should be facilitated where acceptable and where fitting with the MOD Policy as stated above.

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 also registered airfields.

Similarly, section 28 of the CROW Act enables S of S for Defence to temporarily or permanently restrict the provision of coastal access for the purposes of national security or defence.

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

COMMON LAND (Commons Act 2006)

There is still common land on the MOD estate. However, wherever possible the MOD has acquired both the land and Rights of Common when acquiring land. During the introduction of the 1965 Act, the draft registers were checked

to ensure that MOD interests were recognized. However there are still areas where commons rights exist. From the implementation date for an area the remaining commons must be managed in accordance with the provision of the 2006 Act.

DIRECTIONAL SIGNS AND INFORMATION NOTICES

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

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

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

Related Statute (Main Legislation)

Key Legislation/Policy	Year of Effect	Summary of key points and their application	Regulatory Authority	Penalty
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	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	Natural England/Natural Resources Wales	

		Welsh coastal routes for recreational journeys and rights of access to land near the Welsh coast		
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.		
Occupier 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.		