

Managing the Challenge of Access

Proceedings from the 2000 Annual Conference
of the
Countryside Recreation Network

Edited by Emma Barratt,
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Countryside Recreation Network

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- Covers the UK and the Republic of Ireland
- Gives easy access to information on countryside and related recreation matters
- Reaches organisations and individuals in the public, private and voluntary sectors
- Networks thousands of interested people

The Network helps the work of agencies and individuals in three areas:

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to encourage co-operation between members in identifying and promoting the need for research related to countryside recreation, to encourage joint ventures in undertaking research, and to disseminate information about members' recreation programmes.

Liaison:

to promote information exchange relating to countryside recreation, and to foster general debate about relevant trends and issues.

Good Practice:

to spread information to develop best practice through training and professional development in provision for and management of countryside recreation.

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MANAGING THE CHALLENGE OF ACCESS

Jo Burgon

Advisor on Coast and Countryside, National Trust

This conference considered the practical implications of providing and managing access to the countryside in the context of legislative proposals being put before Parliament and the Scottish Parliament and new access initiatives in Northern Ireland. Although there has been and will continue to be different legislation governing the management of access across the UK there are lessons and experiences to be gained on how it works in practice on the ground.

These proceedings give an indication of how these practical arrangements are currently being developed and how this workshop helped participants exchange ideas and experiences. There are common principles governing any new access legislation - with rights come responsibilities - access arrangements must be accommodated with land and conservation management interests - new access opportunities are based on a consensus approach with the interested parties.

The parliamentary debates on the Countryside and Rights of Way Bill have helped highlight the key issues surrounding access to open country. They have allowed the fears of what might happen with a new right of access to open country to be expressed. Government has to find a path that is workable for all concerned.

This workshop enabled those with responsibilities for making the new legislation in England and Wales, and eventually in Scotland, work consider the practical issues at a relatively early stage and become aware, if they were not already, of some of the choppy waters ahead.

There will no doubt be more gatherings of this nature as the implementation of new access legislation across the UK gathers pace. The Countryside Recreation Network will want to play its part in bringing together practitioners to exchange ideas and experiences so that the quality and standard of access management is of the highest order.

ACCESS PROPOSALS ACROSS UK - BRIEFING NOTE

Jo Burgon

Advisor on Coast and Countryside, National Trust

England and Wales

- Countryside and Rights of Way Bill now in committee stage in House of Commons. Expected to finish by end of May. Royal assent expected in November. Committee stage debate can be followed on Parliament website:
www.publications.parliament.uk/pa/cm199900/cmstand/b/cmway.htm
- Bill is in four parts access proposals covered in Part I - access to the countryside and Part II public rights of way and road traffic.
- Part I grants a new right of access to mountain, moor heath, down and registered common land with a power given to Secretary of State to extend to coastal land and for further land to be dedicated voluntarily in perpetuity
- This land will be mapped. There are procedures to confirm these maps. The Countryside Agency and Countryside Council for Wales are to be the mapping authorities
- The exercising of the right will be restricted with powers to regulate through byelaws. Wardens can be appointed by local authorities to support landowners in the management of access and the enforcement of byelaws.
- Closures and restrictions to land will operate for land management and conservation reasons
- There are arrangements to be put in place to secure the means of access to access land which will involve National Park and local authorities
- National Countryside Access Fora established for England and Wales
- Local Access Fora to be established as non statutory fora

Scotland

- Scottish Natural Heritage have offered their advice to the Scottish Executive - '*Access to the Countryside for Open Air Recreation*'.
- The vision is that:
 - people should have a clear entitlement to be on land and water exercised responsibly with respect to land management and conservation;

- land managers and recreational users will have a clear understanding of their responsibilities;
 - there will be better mechanisms and financial support for facilitating and managing access;
 - a co-operative approach in which the needs of all interests are respected and in which people will have a sense of responsibility for and stewardship of the natural heritage and the countryside.
- Legislative route for providing a general right of access, exercised responsibly is set out in the consultation paper Land Reform: Proposals for Legislation (July 1999). Legislation will create a statutory right that allows the public to enter upon land and water regardless of who owns or manages the land or water, for the purposes of informal recreation, provided that they exercise this right responsibly. People will be able to exercise the right on their own, in a group or family, or as part of a club outing.
 - The right will be constrained on a temporary basis where the nature of the land use is such that public access would either be dangerous or damaging for the land use.
 - Access proposals also contained in National Parks (Scotland) Bill
 - Scottish Countryside Access Code is being developed.
 - Local Access Fora to be created in each local authority area. Legislation will set out duties and powers.
 - Details are on the Scottish Executive website www.scotland.gov.uk

Northern Ireland

- Consultation document 'Providing for Access to the Northern Ireland Countryside' issued last year.
- Dealt with deficiencies in existing legislation in respect of rights of way, proposals for extending access to open country, managing public access in practice and concerns over occupier's liability.
- Consultation closed at end of November 1999. No further details known.

IMPLEMENTING THE GOVERNMENT'S ACCESS PROPOSALS IN WALES

Gareth C. S. Roberts

Head, Recreation, Access & European Affairs, Countryside Council for Wales

Introduction

In the Manifesto the Labour Party published prior to the general election in 1997 it made a commitment to give *'greater freedom for people to explore open countryside'*. As the Government's adviser on sustaining natural beauty, wildlife and the opportunity for outdoor enjoyment throughout Wales Countryside Council for Wales (CCW) is expected to help the Government deliver its policies in ways which are practical and sustainable. The Government's policy is set out in the 'Framework for Action' published in March 1999 and the Countryside and Rights of Way Bill which received its first reading in March this year.

Part I of the Countryside and Rights of Way Bill (CroW Bill) contains provisions to introduce a new statutory right of access for open-air recreation to mountain, moor, heath, down and registered common land. It also includes a power to extend the right to coastal land by order and allows landowners voluntarily to dedicate any land to public access in perpetuity.

There will be restrictions on the new right - for example, the Bill includes provisions to exclude or restrict access for any reason for up to 28 days a year without seeking permission. Landowners will also be able to seek further exclusions or restrictions on access for land management reasons. The Countryside Council for Wales (in England, the Countryside Agency - collectively known as the countryside bodies) and in national parks the National Park Authorities, will be able to approve such applications and, in addition, will be able to approve exclusions and restrictions on the grounds of nature and heritage conservation, fire prevention and to avoid danger to the public. The Bill also includes provisions for restrictions on dogs on access land.

There has been a long history of people desiring to have greater access to open countryside. One of the earliest attempts to legislate was in the 'The Mountains, Rivers and Pathways (Wales) Bill' presented to Parliament in 1888 by Tom Ellis, MP for the Parliamentary constituency of Meirioneth. Ellis's Bill was more adventurous than that currently before

Parliament. It proposed that:

'the public shall have the free right to enter upon, and have access to mountain land, moor land and waste land, and to have access to walk along the bed of any river, stream, or lake, to ride in any boat, coracle or canoe upon any river or lake, for the purpose of recreation, winberry gathering sketching or antiquarian research.'

It was to take another 60 years before the National Park and Access to the Countryside Act 1949 provided for the creation of access by agreement or order in England and Wales, however, fifty years on only some 50,000 hectares of access are thought to have been secured under this Act. Despite such measures it is estimated that there are around 500,000 hectares of open countryside in England and Wales where access is denied and a further 600,000 hectares where access relies on informal or de facto arrangements.

In its consultation paper 'Access to the open countryside in England and Wales' (February 1998) the Government invited views on how to secure more and better access to open countryside. The paper sought views on both statutory and voluntary approaches to achieving greater access to the 10% of the land area of England and Wales estimated to be mountain, moor, heath, down and registered common land. The consultation paper set out key criteria against which the approaches would be judged - extent, quality and permanence of access, together with cost, clarity and certainty and monitoring and enforcement.

CCW along with the large majority supported the introduction of a statutory right of access to these areas. In its response CCW argued that providing greater access to open country should be considered in the context of access to the wider countryside and its enjoyment by the public. We emphasised the links with other Government policy commitments to increase biodiversity, extend agri-environment schemes and encourage more sustainable modes of travel and transport. These views reflected our existing policy on 'Access to the Welsh Countryside' published in 1996.

Some of the Government's access proposals - including setting up National and Local Access Fora - are not referred to in the CRoW Bill at all. There are several other matters to do with the implementation and management of the new rights which will remain to be confirmed in Regulations to be published between the Bill receiving Royal assent and the new rights becoming operative. Some of these matters will be left to the National Assembly for Wales to

determine independently of Westminster.

Annex 1 summarises the full range of operational responsibilities for the implementation and management of the Government's access proposals in Wales. This is based on the proposals contained in the Government's 'Framework for Action' (March 1999). It needs to be modified slightly to account for additional powers and/or duties proposed in the CRoW Bill including -

- powers to extend rights to coastal areas;
- duties to review statutory maps within 10 years;
- powers for owners to dedicate rights of access over their land irrevocably, and
- powers for local authorities to appoint wardens to secure compliance with restrictions and enforce bylaws.

Work Already Undertaken to Take Forward the Government's Access Proposals

Mapping Access Land

The Framework document asks the Countryside Agency and CCW to '*start work at once on the important and substantial task of preparing maps to show where the new right of access is to apply*'. In 1999 CCW undertook a pilot mapping exercise in 4 areas of Wales to test the efficacy of the approach we had previously advocated to map 'mountain, moor, heath, down and registered common land in Wales'.

This work helped us confirm our advice to Government that:

- 'open country' should be defined objectively in relation to semi-natural vegetation synonymous with these land cover types;
- 'access land' should be described on maps but reflect the need for boundaries to intelligible to access users and relate to physical features on the ground;
- draft and provisional access maps be produced, and
- sufficient time be provided to allow consultation with interested parties.

We also advised that if the resources were made available to us in January 2000 that we could conclude the preparation of draft maps - in readiness for public consultation - within two years.

National and Local Access Fora.

The Government expects the National Access Fora (NAFs) in England and Wales 'to make a significant contribution to the development of policy and procedures'. CCW established a Wales Access Forum in 1994. This initiative was welcomed by Government who asked us to consider how it might develop its role to assist in implementation of the new statutory rights of access. This we have done and we now have a National Access Forum comprising representatives of 36 organisations with access interests in Wales. All Forum meetings will be held in public. Its papers and minutes will be published on CCW's website www.ccw.gov.uk.

Local Access Fora (LAFs) are expected to 'be established well before legislation comes into effect'. Given that Ministers expect to see the new rights in place 'within the life time of this Parliament' - that does not leave much time to prepare the guidance we are expected to give to the local and national park authorities to establish these non-statutory fora. CCW (and the Countryside Agency) has commissioned research to inform its thinking on these matters.

Publicity and Information

The Government recognises the importance of developing more effective publicity and information about access opportunities. CCW has been considering what action should be taken at a local and national level to improve information about access opportunities. We have commissioned research to help identify (on three Ordnance Survey Landranger sheets in Wales) land and routes which offered statutory and permissive rights of access. The Ordnance Survey subsequently published details of one of these pilot exercises on its 'Landranger Sheet 124 - Dolgellau'. CCW is currently discussing with the Ordnance Survey and others the opportunity for developing a National Access database for Wales onto which comprehensive details of access opportunity including land mapped by CCW will be held.

CCW is also keen to publicise information about the condition of access opportunities, the standards to which it is maintained and any restrictions which might apply. These details are crucially important to people in their planning and ultimate enjoyment of visits to the countryside.

CCW is currently involved in recording Millennium Miles - routes which meet the BT Countryside for All standard sought by people with disabilities. We plan to register 500 Millennium Miles by 2002.

Associated Access Work

The Government's package of access proposals is not confined to 'open country'. It is to do with the integration of open and linear, voluntary and statutory arrangements and improving accessibility to the countryside to all.

The Government is committed to securing the proper recording and maintenance of the Public Rights of Way (ProW) network, the main means of access to the countryside for most people whether on foot, horseback or bicycle. CCW is equally committed to this aim. In each of the last three years up to £1 million of grant aid was made available to highway authorities to help fully open up popular, useful and scenic paths in their areas. An average of 1500 kilometres of PROW per annum has been opened up in this way. CCW has supported a full PROW condition survey in over 640 community councils. We have published the results in detail and provided grant aid to the Ramblers' Association - 'Paths for People' to encourage these Councils to become more active in managing and protecting their local paths.

The Tir Cymen (pilot) and Tir Gofal (national) agri-environment schemes in Wales are also contributing to the effort to improve access to the Welsh countryside. Both are whole-farm schemes incorporating cross-compliance measures requiring entrants to keep PROW on their land fully open and unobstructed and to allow public access to open country. They additionally provide grant-aid incentives to those wishing to voluntarily create permissive paths for walkers, cyclists and horse-riders.

Improving accessibility to the countryside - making it easier to get there - is also part of the Government's strategy. This involves developing policies and programmes that are more socially inclusive. CCW has developed policies that aim to encourage people to make greater use of public transport particularly when planning their recreational visits to the countryside. From next year our grant aid for improving PROW will be more closely aligned with links to public transport. Greater emphasis is also being given to encouraging people to take exercise and walk more in support of their health. A three-year walking for health initiative has been developed in partnership with the British Heart Foundation in Wales. This will supplement the very successful 'Lonc a Chlonc / Walk and Talk' initiative which CCW and the Ramblers' Association in Wales have promoted to encourage walking over the last eight years.

Work Planned to Take Forward the Government's Proposals.

CCW broadly welcomes the Government's access proposals and has asked for additional funding to help implement them. The funding provided by the National Assembly for Wales last and this earlier this year fell well short of what we require to deliver the tasks which we have been charged to take forward. Additional funding has very recently been granted with which we will now plan in 2000/01 to be able to take forward the full range of tasks identified for us in the Framework document in a pilot demonstration project area.

We also plan to digitise common land and Phase I and Upland Habitat survey data which we hold and from which we will prepare our maps of mountain, moor, heath and down land. It is unlikely that we will have the resources to complete the digitisation of common land and habitat data this year, but we will do what we can in readiness for the preparation of draft access maps as and when the legislation provides for this exercise to begin.

The establishment of local access fora is also a priority this coming year. The NAW has allocated £100,000 to assist in this. The template for the LAFs has yet to be drafted. The Framework document recognises that *'different arrangements might well be appropriate in different parts of the country'*. A key consideration will be advising on the geographical distribution of the LAFs so that they are effective both in advising on rights of way issues and local closures of, or restrictions to, access land, in accordance with national codes.

Another urgent task for us in Wales is to convince the National Assembly about the resources we need to deliver the work which will flow from the legislation. Much work will fall on the shoulders of the 22 unitary and 3 national park authorities in Wales. We are in discussions with the Welsh Local Government Association (WLGA) and Association of National Park Authorities (ANPA) regarding the resource implications of this work.

Establishing a local access forum for the Berwyn - our demonstration project area - will inform our thinking about the resources implications of the Government's proposals and how the range of tasks associated with it should be taken forward, in an integrated fashion, elsewhere in Wales.

The Berwyn Demonstration Project

The Berwyn is a long spine of upland country running from Mallwyd on the Gwynedd -

Powys border for over forty kilometres to just south of Llangollen in Denbighshire. The topography is characterised by gently contoured ridges and spurs rising to 827 metres at Cadair Berwyn. It became the focus of conflict between conservationists, farmers and foresters in the early 1980s when the then Nature Conservancy Council (NCC) proposed an extension to the Moel Sych SSSI (10,000 acres) first designated in 1957 to over 53,000 acres (24,540 hectares) of the Berwyn. The controversy surrounding this episode prompted the formation of the Berwyn Society comprising representatives of farming and land owning interests, the Forestry Commission and the NCC with the express aims of '*promoting practical methods of providing for conservation whilst safeguarding the interests of Berwyn farmers and landowners*'. Public access was not referred to in the terms of reference and an 'understanding' seemed to have developed amongst its members that access interests were not compatible with nature conservation.

At that time neither the NCC or the Forestry Commission had a statutory remit for access and recreation and nor was there much demand for access. Public rights of way were few and far between and the Snowdonia National Park - established with access as one of its express purposes - was adjacent and convenient to visitors to North Wales.

The merger of the NCC and the Countryside Commission to form CCW in 1991 brought together - for the first time in Britain under the auspices of a single public body - responsibilities for the conservation of landscape and nature and public enjoyment and access to the countryside. In the past ten years CCW has witnessed a steadily growing demand for access to the Berwyn. A Countryside Service was established by Clwyd County Council in 1989 to help manage this demand. Since 1994 the Countryside Service has been continued by Denbighshire County Council with grant aid support from CCW. It is charged with looking at ways to improve access and help resolve problems associated with recreational trespass including motor cycle scrambling.

The Government's proposals to grant public rights of access to open country are controversial with farmers on the Berwyn and elsewhere in Wales. Apart from their objection in principle to people being allowed to wander at will over their land they cite problems associated with damage to fences and walls, disturbance and injury to stock caused particularly by dogs, and increased public liability associated with the new rights. CCW is sympathetic to these concerns and committed to work through the Local Access Forum to overcome them. We

consider that they can be overcome in ways which will bring wider social, economic and environmental benefits in their wake.

Managing access to a sensitive upland area such as the Berwyn is a particular challenge for CCW uniquely charged as it is with both defining and mapping the areas to which the new access is to apply and deciding whether access to this land should be closed or otherwise restricted when conservation interests are threatened. The designation of part of the Berwyn as Special Protection Area and its status as a candidate Special Area of Conservation brings with it added responsibilities under European Commission Directives.

The Berwyn Demonstration project gives CCW the opportunity to further test the efficacy of the policy approach it has advocated for access to open country in Wales. This job is not going to be easy. The Berwyn is one of the handful of upland areas cited by the Ramblers' Association in its 'Forbidden Britain' campaign. A great deal of effort will have to be expended over the next year to reconcile differences and attitudes to access. Two Members of Parliament represented on the CRoW Bill Standing Committee have part of their constituencies within the Berwyn project area. CCW will work closely with them together with owners and occupiers, access users and local authorities in the area to better integrate and enhance access and conservation interests in ways which, in turn, will also bring social and economic benefits to the local community - that must be our ultimate aim.

PROPOSALS FOR ACCESS LEGISLATION IN SCOTLAND

Richard Davison

Recreation Group Officer, Scottish Natural Heritage

Introduction

Access to the outdoors in Scotland is a devolved issue for the Scottish Parliament to address. This has resulted in a markedly different and wider approach to developing proposals for access legislation in Scotland. This paper describes the process followed, summarises the main proposals and outlines the next steps in terms of the legislation and its implementation.

Process

In October 1997, the Government asked Scottish Natural Heritage (SNH) to provide advice on appropriate changes to the law relating to access in Scotland. It stated that "*...The Government is committed to giving people greater freedom to enjoy the countryside. However, Scotland has distinctive laws and traditions relating to access, which are different from those in England & Wales, and it would not be appropriate to consider this issue on a GB basis. We need measures appropriate to Scotland, and this is something [we] would expect the Scottish Parliament to address*".

The Government went on to say that it had "*...asked SNH to consult anyone with an interest in the subject, whether from a land-holding or recreational point of view, and offer advice. SNH might wish to use the existing Access Forum to assist in the consultation or it may decide to set up a separate group. Whatever means is chosen, [we] expect SNH to complete the exercise by the end of 1998*".

The Access Forum was established by SNH in 1994. Its membership is small to promote effective working; balanced, so that there are roughly equal numbers of recreation groups, land management interests and relevant public agencies; and representative, mainly of the "umbrella" organisations which can inform and consult their own memberships about the Forum's work. The main role of the Forum is to debate and resolve access issues at a national level on the premise that the public have an expectation of access to the countryside and that the countryside is a place where people work and live and where a wide range of land uses are managed. The Forum is serviced by SNH.

Although its remit covers all aspects of access, the Forum was established with an initial membership appropriate for considering access to the open hill because it seemed possible to make early progress on this issue. A separate group, called the Access Forum (Inland Water), was established in 1996 to explore access issues relating to water-based recreation on inland waters. The group has the same tripartite structure, many common members with the Access Forum and is serviced by sportscotland.

On receipt of the Governments' request, SNH asked the Access Forum to act as its advisory group. Given the wider debate on access, the membership of the initial hill-based group was expanded to include the Scottish Rights of Way Society, Forestry Commission and the Scottish Crofters' Union. The Access Forum (Inland Water) has also been involved in developing the advice. The term "Access Forum" is used throughout to cover both groups described above.

In March 1998, the Access Forum (through SNH) issued a short consultation leaflet asking people to consider what the main needs for change were and what changes were needed in the law. SNH also consulted practitioners to discuss technical issues, including how the current law is used and what advantages and disadvantages it offers.

A detailed study of the access arrangements in Norway, Sweden, Denmark and Germany was commissioned from Peter Scott Planning Services. A sub-group of the Forum identified areas of agreement and disagreement on the existing law. A legal Opinion was sought from Professor Douglas Cusine of the University of Aberdeen on key issues and detailed comments were provided by Scottish Wildlife & Countryside Link.

The advice of the Forum was submitted to SNH in October 1998. SNH decided to accept the advice and to add its own "commentary". These were then submitted to the Scottish Office. In February 1999, the Government accepted the advice as the starting point for legislation and asked SNH to prepare a draft Scottish Outdoor Access Code and to involve the Access Forum in this work. The details of the draft Code were sorted out by a sub-group of the Access Forum. On its own initiative, the Access Forum established a sub-group to explore in more detail the issues relating to paths.

In July 1999, the Government issued a White Paper on Land Reform which set out the basic legislative proposals for access. The consultation generated a large number of responses, with many from landowners and farmers.

The draft Code, together with the paper on paths, were submitted to SNH in September 1999. These, in turn, were passed to the Scottish Executive in November. Copies of these can be found on our website (www.snh.gov.uk). Since then, there have been further refinements made to the Code.

Legislation is currently being drafted by the Scottish Executive. Prior to being considered by the Scottish Parliament, the draft Bill, together with a copy of the draft Scottish Outdoor Access Code, will be put out to consultation. This is expected to happen by the early summer.

The need for change

SNH and the Access Forum agreed that there were four key needs for change.

The first need is for *a distinctive new approach, based on a modernised law designed to meet Scotland's needs*. It was concluded that the existing law would not deliver the Government's commitments, particularly because: much current access is insecure and uncertain; the land manager has few, if any, effective remedies against irresponsible behaviour; public rights can only be asserted through often costly and complex procedures; it is based on often out-dated case law; and, it favours the confident user and the land manager who does not wish to encourage access. It results in resources being concentrated on asserting rights, in access being tolerated with little promotion or signposting to help the visitor, and in solutions being short-term. These problems are particularly evident in the lowlands where there is a clear shortage of paths offering the public assured and welcoming access.

The second need is for *the concerns of land managers to be addressed*. The concerns of land managers are not well addressed under the existing law or by current arrangements for managing access. Whilst most people behave responsibly, some do not and this can cause significant problems for land managers. Some irresponsible behaviour (e.g. poaching, vandalism, poor dog control, litter dropping) is already covered by legislation but there is often little support available to the land manager faced with such behaviour. Past effort at encouraging responsible behaviour through education and information has often been

inconsistent and under-funded. Whilst the *Country Code* has been available for many years, as have a growing number of activity codes of conduct, the messages have not been well promoted and so knowledge of them is quite low.

The third need is *to engage and involve local communities and land managers to a much greater extent*. Communities, including land managers, are often not involved in the preparation of access strategies, in the early development of proposals or in the management of facilities. Perhaps the most significant need, particularly compared with elsewhere in northern Europe, is to improve the sense of responsibility for and stewardship of the natural heritage and countryside generally by the public and local communities.

The fourth need is *for better mechanisms and additional resources for facilitating and managing access*. Whilst new routes and local path networks are being created, progress has generally been limited and slow, and the provision of routes and networks is poorer than in countries like England, France or Germany. Off-road provision for cycling and horse riding is particularly poor. More investment is needed in support, dialogue, involvement and practical help, particularly as, given the scale of informal recreation, it is clear that the current level of investment is too small. Although many local authorities have sought to act positively, the current legal framework works against real progress and results in low levels of investment and a generally limited and reactive approach by many local authorities.

The proposals

All interests on the Forum, and SNH, concluded that the existing law does not provide a sensible or workable foundation for providing people with greater freedoms to enjoy the countryside. A distinctive new approach is needed which is underpinned by a modernised law designed to meet Scotland's needs.

The Forum and SNH recommended that Scotland's tradition of tolerance towards public access should be confirmed as a statutory right of access to all land and water, exercised responsibly, for informal recreation and passage. This right should be one part of a balanced package which includes: safeguards for privacy, land management operations and conservation; a new code of responsible behaviour; a major programme of information, promotion and education; obligations on local authorities and land managers; better powers

for facilitating and managing access; a co-operative approach in which the needs of all interests are respected; and additional resources.

This package will satisfy the Government's commitment to giving people greater freedoms to enjoy the countryside and help it to implement its new policy agenda on:

- *land reform* - access will be an essential part of any stronger emphasis on land stewardship aimed at meeting the future economic, environmental and social needs of society;
- *rural development* - encouraging people to visit Scotland and meeting their needs will play a key role in helping to deliver the Government's new agenda aimed at supporting local rural development in a sustainable way;
- *transport* - making better provision of safe, off-road routes for walking and cycling will help the Government to persuade people to make less use of their cars and thus deliver a more sustainable transport system;
- *health* - encouraging people to walk, cycle or ride will help to get more people active and thus help the Government to reverse the extremely poor health record of Scotland's population;
- *social inclusion* - providing good access, particularly close to where people live, will help those without a car and those with disabilities to enjoy and appreciate the countryside and thus help the Government to implement its policy of "social inclusion" and to show that the European Convention of Human Rights is being utilised to improve society.

It is proposed that the right of access will:

- extend to all land and inland water in Scotland, except for buildings and their curtilages, and for places where public access is already restricted by the law;
- be available to any person, either on their own or in a social group (such as with family or friends) or as part of a club outing;
- extend to any time of the day or night (though the degree of responsibility increases at night time);
- be available for a wide range of informal open-air recreation activities and for passage (this includes walking, cycling, horse riding, canoeing, climbing).

There are a number of qualifications on the right of access which aim to protect the interests of others and the outdoor environment. As proposed, the right of access would not extend to:

- any building or its curtilage (defined as “land or water immediately surrounding a building and which serves the purposes of the building in some necessary or reasonable way”), or places where public access is already restricted by the law;
- field sports, angling or any motorised activity on land or inland water;
- taking anything away from the outdoors;
- any organised event or activity which is large-scale or requires facilities, services or the regular or exclusive use of a specific area;
- anyone behaving irresponsibly and causing damage or significant disturbance (the law already provides sanctions against many forms of irresponsible behaviour and these will continue).

Responsible behaviour will be defined through a new *Scottish Outdoor Access Code*, which will indicate how the right of access is expected to operate in most situations. It will be the reference point for the much shorter codes which, at a later stage, will be needed for general public use. Several shorter codes will be produced over the coming months. The Code will be an evidential document (similar to codes for health & safety and disability discrimination). When someone is not following the Code and, after being asked to modify his or her behaviour, fails to do so and damage or significant disturbance occurs, that person forfeits the right of access because he or she is not exercising it responsibly. In this situation, the land manager would be entitled to ask the person to leave. SNH will have a duty to promote the Code and responsible behaviour generally. A major educational and promotional effort is essential.

Landowners and occupiers will be required not to obstruct, interfere with or intimidate people from exercising the right of access. Equally, they will be able to manage how people exercise the right by, for example, asking people to follow an alternative route whilst a management operation is underway.

It is expected that the legislation will place a duty on all public bodies to recognise, accommodate and protect the right of access and the responsibilities set out in this Code in their policies, plans and actions. Councils will be required to:

- establish at least one local access forum to achieve complete coverage of their areas;
- facilitate and plan for access in their areas;
- identify, and create a public record of the core path network for their areas;

- ensure that its core path network is well-defined, accessible, protected and managed; and to
- prepare a subject plan on access.

The “core path network” is a new concept. The local authority will identify the network through a subject plan and by involving the local access forum. Having identified the network, the local authority will then need to ensure that it is well-defined, accessible, protected and managed.

Councils already have a range of powers to provide facilities in the countryside. The new legislation will add considerably to these powers, particularly in relation to:

- the removal of obstructions from paths;
- the employment of ranger services over any land or water; and
- the introduction of management rules and byelaws over any land or water.

The creation of local access fora is seen as vital to ensure that all key local interest groups, including land managers, users, local agencies, and local communities, work together at a local level. These fora will have a tripartite structure (i.e. land managers, users and public agencies) and will have an advisory and mediatory role, and act as a consultee on the diversion and closure of paths in a core path network, and on the introduction of management schemes.

Liability is a key issue. It is expected that the legislation will make clear that people exercising the right of access should do so at their own risk. However, land managers will still be liable for reckless or negligent acts.

The next steps

The draft legislation is currently in preparation and it is expected that it and a draft of the new Scottish Outdoor Access Code will be put out to consultation in early summer, 2000. Following consultation, a draft Bill will be laid before the Scottish Parliament for detailed consideration. The exact timetable is not yet clear but it is likely that the legislation will be agreed by early 2001.

Attention is already turning to how the legislation and the Code will be implemented. Three initiatives are of particular importance:

- A study is underway of seven local authorities to determine how the legislation might be most effectively and efficiently implemented and to identify more clearly the resource implications that will arise. This study will provide the background information for formal guidance and help to identify the support that local authorities will need.
- A feasibility study into the creation of a national baseline inventory of all paths and tracks is nearing completion. This inventory would provide the basis for identifying the new core path networks. Depending upon feasibility and costs, the inventory should be completed during the second half of 2001.
- A programme for promoting the new Code and responsible behaviour generally will be developed during 2000. Several projects are reviewing past campaigns, other types of code and the capacity of existing partner organisations to become involved.

Conclusions

Access to the outdoors in Scotland is a devolved issue and for the Scottish Parliament to decide on and this has led to a markedly different approach from that in England & Wales. Whilst the process has been a long one and is still continuing, the request from Government was to review the legal arrangements to the countryside as a whole, and not just to open countryside. Furthermore, the Access Forum in Scotland has had a direct, participatory role in the development of the proposals for access legislation.

The proposals; for a right of access to land and water, exercised responsibly, for informal recreation and passage, for a new Scottish Outdoor Access Code setting out what constitutes responsible behaviour, for stronger duties and powers, and for more emphasis on information, management and education, are a Scottish solution to Scottish needs. They align Scotland very much with Scandinavian approaches. Implementation must be done effectively and work is already in hand to sort out the best ways of doing so.

FIELD VISITS

*Organised by Jo Burgon, Advisor on Coast and Countryside, National Trust,
Sean Prendergast, Chief Ranger, Peak District National Park, and
Steve Trotter, Property Manager, High Peak Estate, National Trust*

Introduction

Each site was specifically selected to represent as wide a spectrum of the access debate as possible within the time available. The main aim was to encourage discussion at each location rather than rely on set presentations. Two coaches travelling in opposite directions took the delegates to each site with Sean Prendergast, Head Ranger Peak National Park acting as guide on one coach and Steve Trotter, Property Manager, High Peak Estate, National Trust acting as guide on the other coach. Time allowed for each site visit was 30 minutes.

Purpose of Visits

1. To gain an appreciation of the existing access arrangements to open country in the Peak District
2. To discuss the practical implications of the new right of access to open country and how these might differ from current approaches

Moscar Moor and Cutthroat Bridge

- A moor, not currently under an Access Agreement, but Rights of Way cross the moor.
- What are the concerns of the Landowner and Farmer? How should Access be managed in their view?
- Issues for discussion: mapping open country; access points onto open country; access and internal boundaries on open country; parking areas and information points; role of National Park Authority to support the landowner and visiting public when new rights are exercisable; occupiers liability.
- Meeting: Mr Jeremy Archdale, land owner and Mr Neil Taylor, tenant farmer.

Ashop Moor, Snake Pass and Pennine Way

- Part of National Trust High Peak Estate with open access and adjoining privately owned moor under an Access Agreement.

- Issues for discussion: Fire plans and closure procedures; byelaws; dogs; nature conservation and public access (e.g. this is a site for researching disturbance factors for golden plover); access for all (paths and surfaces and construction of gates/stiles); designing routes over open country.
- Meeting: Steve Trotter, National Trust Property Manager, Sean Prendergast, National Park Chief Ranger, and Andy Shaw, National Trust Area Warden.

Chunal Moor, near Glossop

- An actively managed grouse moor with Access Agreement
- Issues for discussion: rights of way to open country; open country on the urban fringe; grouse moor management and the relationship with open access; access points; ranger/warden support for managing Access Agreements; keepers experience of access.
- Meeting: Fred Mitchinson, Keeper

FIELD VISITS SUMMARY 1

Marion Sylvester

Access Advisor, Scottish Landowners Federation

Chunal Moor

- A practical approach to access management is essential
- There needs to be better communication between the agencies involved
- Open access need not be frightening as most people will follow traditional routes

Ashop Moor, Snake Pass and the Pennine Way

- The cost of managing access in high use areas
- Disturbance to wildlife caused by unmanaged access
- Most people will keep to good, well maintained paths

Moscar Moor and Cutthroat Bridge

- Importance of education
- Management of access points important to minimise impact on wildlife
- Difficulties of managing/ policing problems

Summary

Points common to all sites include:

- Disturbance to wildlife worries
- Management of access through paths and access points – reduces disturbance and conflict
- The need for the practical management of access for visitors and to meet the needs of the land managers.

FIELD VISITS SUMMARY 2

Jon Young

Recreation Officer, Brecon Beacons National Park Authority

Most of the issues discussed at all sites were not legislation specific, rather they were issues of public behaviour and impacts that 'countryside managers' have been trying to deal with for 20 years or more (dogs, gates, erosion, car park location etc).

The role of wardening to deal with these issues was stressed by the managers we met, saying that they did not have the time or perceived authority to deal with visitors "*we look after the land and the wardens look after the people*".

The fire fighting issues discussed at Snake Pass showed the importance of sensibly defining 'area units' as land ownership or administrative boundaries are mostly irrelevant in terms of land management.

In areas already enjoying high levels of public access (as all the sites we visited) there is potentially going to be a nett loss of access – due to the 28 day closure allowance. It was though that the public communication problems associated with this would be significant.

OFF THE TRACK: PROBLEMS LOOMING FOR THE RIGHT TO ROAM

Marion Shoard

Author and lecturer

I hope you've all enjoyed a day spent beginning to contemplate what's actually going to be involved in administering our exciting new right of access to some of the countryside of England and Wales. I have certainly enjoyed it, but unlike lots of you I'm not actually going to have to administer it myself. As much as I wish you well in this task, I'm not altogether sorry that I won't be having to join you in it, because challenging and stimulating though I'm sure it will turn out to be, it will, I also feel, turn out to be beset by more than its fair share of frustrations. We've heard lots of encouraging and reassuring noises today, as is of course only right and proper. But I'm afraid a certain amount of tears, wailing and gnashing of teeth lie ahead, because of the particular way in which the government has chosen to approach the access question in England and Wales

To get an idea of whence the problems come, it is worth just reminding ourselves what the government didn't do. In seeking to create a right of access to the countryside it could simply have announced that on a particular appointed day the law of trespass would be overturned, so that a general prohibition against being present in the countryside would be replaced by a general right to be present. Exemptions and exceptions could have been provided for obvious and easy-to-understand reasons, say, an exclusion for people's gardens to safeguard their desire for privacy, another for land under growing crops so they would not be damaged. Further temporary exemptions could have been added to deal with obvious and easy-to-understand events, like the shooting of game or the felling of trees. There would have been no need to define particular areas to be covered by the right, for anywhere that was not being excluded would have been included. There would have been no need to conjure up explanations for landowners affected as to why they were being hit while other landowners were being left alone. And there would have been no need to devise a means of communicating to walkers the news that certain stretches of countryside were becoming available to them while other not necessarily all that dissimilar stretches of countryside were remaining out of bounds. A right of access along these straightforward lines is not some ludicrously fanciful extremist ramblers' fantasy. Exactly such a right works perfectly well in Scandinavia and is about to be introduced no further away than Scotland.

For the new Labour government in Westminster, if not for the Labour-led executive in Edinburgh, the straightforward approach was far too simple. Apparently in the belief that if landowners could be divided they would put up less resistance, Tony Blair, John Prescott and Michael Meacher took it for granted from the outset that whatever might be going to happen north of the border, the right of access in England and Wales was going to be arbitrarily restricted. And the restrictions were not going to be simple. They were going to be such as would be bound to give rise to ever-burgeoning complexity.

Once it had settled on a partial rather than a universal approach, the government did not of course even stick to just one kind of easily identifiable landscape to provide access to. It could have done this. As many of you know, in 1975 the government of the former West Germany enacted a right of access throughout all woodland, large or small, state or privately owned in its territory. At the time, landowners and huntsmen said this right would cause damage, disturbance of game and wildlife and more forest fires, but the right worked well, brought substantial benefits and by the time it was all nicely bedded down twelve years later, a system was in place robust enough to take the addition of a raft of new features like fallow land and uncultivated rough areas but, most important of all, Germany's network of private roads and paths, unless they pass close to a dwelling or through a farmyard. This last element has at a stroke opened up other landscape features like lakesides, riverbanks and a great deal of farmland. Some of the regional local authorities which administer the right have extended it further, for instance, to field edges, another type of feature which people can recognise and which, like roads and paths, they often intuitively expect to be able to pass along.

Our government decided to kick off with five landscape types. Unlike woodland, however, which is reasonably easily recognisable, some of our access land types would be ones which even an expert would find hard to define, let alone a Sunday afternoon walker. To make things even more puzzling one of the five types of countryside selected is not even a type of countryside at all. Common land is not necessarily heather and birches: it is whatever has been registered as a common: here in Derbyshire the 83 commons scattered through the county include disused quarries, stretches of limestone grassland, marshes, woods and bits of road verge. But at least we know what is common land and what is not. The same is far from true of mountain, moorland, heath and down. What's called a "moor" in the Somerset Levels is very different from either the so-called "moors" on the edge of York or the North Yorkshire Moors.

Even if you've decided you mean North-York-Moors-type moorland rather than other things called moors, it turns out to be far from easy to define just what you mean. If you try and brand moorland by vegetation type, you face the difficulty that such semi-natural vegetation is constantly changing naturally and can be even more dramatically altered by deliberate changes to, say, the grazing regime. Mountains can (perhaps) be defined by height, but heathland and downland are if anything even more problematic than moorland. In the consultation paper it published in 1997 the government had a go at some definitions. "Down is characterised by semi-natural grassland on shallow, lime-rich soils associated with limestone escarpments", it offered. So how thin would the soil have to be to be considered "shallow"? How calcareous would it have to be to be "lime-rich"? "Escarpment" sounds good for the north edge of the South Downs, but would this word disqualify 40 per cent of the downland we actually have, which is on Salisbury Plain?

Once the enormity of all this sank in, the unfortunate officials faced with the task of making the government's scheme flesh seem to have given up. The Countryside and Rights of Way Bill is remarkable for the absence of definitions of the kinds of land to which the right of public access is actually supposed to apply. This is just as well. How could any definitions have coped with those countless hillsides in which you see heath, down or moor gradually merging into, indeed been taken over by scattered trees, here thin, there becoming dense woodland, the whole scene changing its shape from year to year? What about those green hillsides whose grassland might be semi-natural but might be "improved" pasture? In shrinking from dilemmas such as these, the legislators have been entirely sensible. But they have not disposed of their problems in so doing. All they have done is replace one set of problems for another. For of course the land to be covered by the new right has got to be delineated in some way or other. And what the government has decided is that instead of it consisting of types of land which can be defined, it will actually consist of areas which officials draw upon maps - areas which bear some resemblance, but a varying one, to the five types of countryside originally mentioned. The land covered by the new right is now to be whatever the officials of the Countryside Agency and the Countryside Council for Wales say it is, within the constraint that it must consist at least "predominantly" of one or more of the five types of land originally specified, whatever these five types of land actually are now that no one seems even to be trying to define them any more. This desire is understandable, but a price has to be paid for getting rid of the problem of definition. Whatever logic there was to the selection of the original five types of landscape, and presumably there was some logic,

although we never seem to be quite told what it was, now goes by the board. To create nice tidy chunks of access land on their maps, the agencies can and doubtless will include whole swathes of land which have nothing to do with the original five types. Bits of woodland, for example, which are surrounded by down or heath can now be cheerfully thrown open. But how are the owners of these woods supposed to understand why this is legitimate when the owners of other woods remain untouched? How are walkers to understand why they can walk in woods that happen to have been embraced by the mappers but not woods which have not? What goes for woods will presumably go for streams, meadows, private roads and tracks and much else. Natural and artificial vegetative change during the ten-year life of a designation will mean that the areas selected will come to bear less and less connection with the five types of land which the new right was supposed be all about.

The mapping process will invest in unelected bureaucrats a degree of arbitrary power which is perhaps unfortunate. The three-stage process through which their handiwork is unveiled, consulted upon and appealed promises to enshroud the countryside in one of the most monumental, dreary but completely inescapable wrangles which we have ever seen. Complaints that the whole thing breaches landowners' human rights will gain added weight from the new element of arbitrariness which has been introduced. But even when all this water is under the bridge, the problems of communicating to those affected what land is covered and what is not, and persuading them to accept the outcome, will not have been resolved.

Landowners who find their woodland turned into access land when their neighbours is not are unlikely to accept this happily just because their remonstrations have been rejected. Many walkers, on the other hand, will never get round to looking at the maps on which the agencies will have expended so much sweat. People turning out for a walk on a Sunday afternoon will take note of the fact that they've got a new right to roam and go where they feel they ought to. Much reliance is being placed on signage which will be supposed to tell such people exactly where access land lies. But since we do not even manage to signpost our public footpaths in accordance with the law, the signposting of 10 per cent of the land surface seems unlikely to materialise. So lots of people will wander on to non-access land in the vague expectation that somehow it ought to be accessible. This will understandably enrage landowners who have fought successfully to have their land excluded. The errant walkers will not understand their protests, especially since the distinction between what ought and ought not to be accessible

has already evaporated. In the face of an angry farmer, they may retreat in baffled disappointment, or they may turn stropky. The stropky contingent may well be reinforced by the radical wing of the rambling movement who will argue that the arbitrariness of the system is itself evidence that there is no real case for excluding any of the countryside from the impact of their boots. Perhaps you can see why I anticipate degeneration in relationships throughout the countryside of England and Wales as a result of this new law. But there is more.

As if the problems springing directly from the choice of a partial as opposed to a universal approach to access were not enough, the government has chosen to bury its necessarily complicated proposal in further unnecessary complications.

In other European countries where rights of access exist, the responsibility for administering the right rests more or less straightforwardly in the hands of local authorities. The thinking behind this is that they are democratically accountable, are responsive to local needs, and, very important this, they are in a position to dovetail the implementation of access rights with their other areas of activity - the drawing up of countryside management plans, the purchase of land, communication with the public, the provision of rangers and traffic management like providing car parks and banning particular types of traffic where this is considered necessary. There are provisions for appeal against decisions taken at local level to national arms of government; and there are national agencies to be sure, like Statens Naturvårdsverket (the Natural Environment Protection Agency) in Sweden and Skov-og Naturstyrelsen (the National Forest and Nature Agency) in Denmark, which provide extremely useful advice and back-up to local authorities, and which oversee the publication of information about access rights to the general population including immigrants and foreign visitors.

Under our proposed new system, it is the new, little-known national agencies which assume primary responsibility, with councils being allocated a walk-on role, except in national parks. Local authorities outside the parks will have five main tasks. They will put up signs indicating access land. Second, they will set up and organise local access fora. Third, they will be expected to manage sites which become popular, for instance through the introduction of bylaws and wardens. Fourth, local councils will be expected to secure access to islands of stranded access land. Fifth, they will be expected to enforce access rights where these have been contravened. (Though a complaint will have been made to the Countryside Agency or

the Countryside Council for Wales, which will decide what should be done, it will then ask the relevant local council to take enforcement action.)

This division of function will mean that the public will have no idea who is really responsible for implementing the new right. They will not know who to complain to when it goes wrong. The division will create the usual confusion accompanying the split of closely related functions. But it is worse than that.

Local councils could be forgiven for seeing themselves as being asked to do the national agencies' dirty work. Whichever way you look at things, they won't be getting any of the glory if the system works because they won't be taking any of the interesting decisions. The determination of which land will be covered by the new right, the mapping of access land, the publicising of the location of such land, the determination of closures and restrictions, the adjudication of what to do when the rules are broken - all these things will fall to the national agencies.

This situation seems to have come about partly because the new agencies have been created, need to have something to do and fancy taking on a high-profile new responsibility. But there is a real danger that local authorities will feel unenthusiastic about their role in making the new right of access work. They may wonder why they are being marginalised. They may wonder why their own considerable experience in this area is being disregarded. It is they after all far more than the Countryside Agency which have experience and expertise in administering such rights of access as exist at the moment - the rights of way. This is a complicated area but experience in it is extremely relevant to operating new rights of access in Britain. Yet the Agency has not seen fit to put a rights of way officer or a representative of the Institute of Rights of Way officers on its 16-member national access forum. Gareth Roberts tells me that fortunately the Institute will be given a place on the new 38-member forum currently being established in Wales.

The five tasks councils have been handed may be the most menial ones, but that doesn't mean they are easy ones. If local authorities do not throw themselves into their new tasks things won't go well. Take the issue of stranded land. Stretches of land suitable for access status but surrounded by land which is not can be surprisingly numerous. When I looked at detailed maps of the 6,500-acre Highclere estate in the north of Hampshire in 1998 I discovered that

on that one estate there were twenty-two separate stretches of downland turf, some large, some small, some medium-sized. Only six of these were accessible or viewable from rights of way, which leaves sixteen on this estate alone which would not be accessible under the new right unless additional provision were made. The national agencies are empowered to ignore areas of land which would otherwise qualify which they deem too small to be conveniently mappable. Nonetheless, there will be many areas of stranded land apparently qualifying which they will find it hard to avoid including and which will have to be made reachable through the use of tools like public footpath creation agreements and orders if they are ever to be seen. The Bill does create new powers which might help but they provide only for engineering entry through linear features like walls and hedges which may bound access land. Access to land stranded amidst land not designated as access land will have to be achieved on an individual basis. Up till now, the creation of the odd public footpath to inaccessible land in this way has proved so difficult and expensive that it has rarely happened. It will only happen in the case of stranded access land if local authorities put a colossal effort into making it happen. Will they?

If they fail in this regard, a lot of the stranded land which won't be opened up will probably be in the south, in places like Highclere. Since the new right anyway offers so little to lowland walkers (down and lowland heath make up only four per cent of the 4 million acres involved) the news that even the little they are supposed to get will not actually materialise may exacerbate a customer satisfaction deficit already burgeoning for other reasons I have already alluded to.

Clause 52 does actually empower the Countryside Agency and the CCW to create new rights of way to stranded land. But it is very hard to see them doing this on anything like the scale that would be required, and in any case the thinking seems to be that such action should essentially fall to local authorities. Even if such paths were created they would create a peculiar anomaly. This is because rights of way are stitched to the surface of the globe, providing a permanent right of passage along it whatever the underlying use of the land; what is more, they have to be maintained and kept walkable. The right of access in contrast will simply guarantee that while land remains of a certain character, it will be accessible in principle. If it gets ploughed up - say a piece of downland is turned over to a strawberry field - the public retain their right to walk all over it until the access map is redrawn by the Countryside Agency, after which the strawberry field comes off limits and the access status of

that land disappears. So if rights of way do get established to stranded land we could end up with cul-de-sac routes leading into the middle of ploughed fields.

If local councils are unlikely to crack the problem of stranded land, signage is likely to present them with a problem which may seem simple but is actually likely to prove an even bigger weakness in the new system. Signing access land will be down to local authorities, but it will be discretionary, not mandatory. I have already mentioned that some local councils have not yet managed to signpost all their public rights-of-way where these leave a metalled road - even though this is a mandatory duty they have had more than thirty years to discharge. Lack of enthusiasm in the far more challenging task of signing access land will be disastrous. Yet councils will know that the more energetically they draw access land to the public's attention the more visitors will come and therefore the more pressure there will be on them to find the resources for managing this use with car-parks, rubbish-bin provision, wardening, by-laws and so on, all of which will be expensive and, for sure, under-financed. For local councils, access areas may take on some of the characteristics of country parks as the public fasten on particular areas which become opened up. But whereas country parks are provided where and when the local authority wants them, and the local authority reaps the rewards in terms of public gratitude, they will be expected to provide similar facilities to areas selected by another body in places they may think unsuitable. If, however, local councils do not provide the maintenance expected of them problems like erosion, wildlife disturbance, litter and so on can be expected to materialise.

There are other features of the new system besides the allocation of responsibility between authorities which seem destined to provoke unnecessary confusion and, in doing so, to undermine the effectiveness of the whole regime. Too often potential problems have been met not with a clear and simple choice between alternative courses of action but with some kind of bureaucratic fix intended to be clever, but in fact spreading confusion. A few examples.

One is the decision to restrict the new right of access to a particular purpose. You can go along a public right of way or a road for whatever purpose you like, but you will be able to present on access land only if you are engaging in "open-air recreation". What seems to have happened is that someone has complained that people other than owners might otherwise use the new right to derive a financial benefit which might leave the landowner feeling aggrieved. Instead of saying "too bad", the legislators seem to have felt they must somehow

accommodate this rather unimportant objection. But what will be the position of someone who claims to be using the new right but is really sizing up the area with the object of writing a guidebook? A landowner seeking to enforce the law's prohibition of this activity would probably find it difficult, but unenforceable rights only irritate those awarded them. In any case we actually want people to go and write interpretation material about land opened up for the first time under the new right. Otherwise people won't make the most of some of the hitherto unknown areas now being provided for them.

Another provision which blurs an already messy picture even further is the derogation provided to all affected landowners for 28 days each year. Landowners will be allowed exemptions from the right of access whenever they can demonstrate the need for these for reasons of land management. Public bodies will also be able to get exemptions for conservation of wildlife, habitat, sites of historic or archaeological importance, for the reduction of fire risk and for other reasons of public safety. Why then do landowners need an additional 28-days worth of exemption every year without showing any cause at all? If they need some days to provide for flexibility lest say the weather be unsuited to the land management activities they had planned, why cannot this be covered under their exemption for land management? After all, who is to know that they might not need more than 28 days if inclement conditions persist?

This concession, sacrificing simplicity for the appeasement of landowners, has been further complicated by the desire to appease those it might disadvantage. A further new limitation prevents landowners taking advantage of any of their 28 days at weekends or on bank holidays. The consequence of this provision is that even where walkers have read their maps and worked out when they can go they may find themselves suddenly excluded on any weekday. How are these exclusions to be advertised? If a landowner posts a notice claiming he is taking advantage of one of his 28 days of exclusion and then just leaves it up, who is going to be counting what days he has already used and to take enforcement action against him? The obvious lack of such machinery will only undermine the credibility of the whole system and sow distrust.

Perhaps most important of all the wrinkles in the system concerns the position of dogs. We talk about a right to roam, but in fact few people actually roam over a moor. Dogs, however, do. Owners and conservationists have consistently made clear that dogs are the aspect of

public access which cause them most concern. For dogs really do damage livestock and they really do wreak havoc with ground-nesting birds. An access regime which is to work needs a very clear, very emphatic line on dogs, such as the simple message that dogs are excluded from the right completely. In fact, people are to be allowed to take their dogs with them over the entire 4 million acres to which the new law is supposed to apply, but a dog has to be on a lead at all times when it is in the vicinity of livestock and everywhere between 1st March until 30th June (when birds are nesting). Anyone who has ever seen people out with dogs will know that these restrictions will be widely ignored. Even if people were trying to abide by this law, how would they know what the vicinity of livestock is? How could they be expected to remember to change their habits on 1st March? But of course people don't try to obey regulations affecting their dogs. Now, signs telling people to keep dogs on leads are frequently ignored. Letting dogs in on our new right of access – in effect granting a right to roam for dogs - with vague and inadequate safeguards may well turn out to be the most dangerous of all its deficiencies.

It's already been suggested that landowners confronted by walkers' dogs may like to take advantage of a right of their own which is not being withdrawn and shoot walkers' dogs which end up in what they consider to be the vicinity of their livestock while off the lead. I wouldn't be at all surprised if one or two of them do just this - another reason to fear that the new law may not exactly improve relations between town and country.

Well, if as I suggest, the new access regime for England and Wales is going to pose problems, what will be the outcome? One thing I think they mean is that the new system is not going to bed down easily and win universal acceptance, of the kind enjoyed by, say, the public footpath system. I suspect it will retain a provisional feel. This will make it more vulnerable than it would otherwise be to continuous revision and meddling of one kind or another by future governments. The fact that the system is being controlled by national agencies will of course make it easier for such changes to be made. Sooner or later of course a government hostile to the whole idea of access to the countryside will come along. The many complications of the new system will present it with a ready means of castration. The 28 days of unexplained exclusion could be added to. The bar on Bank Holiday and weekend exclusion could be abolished. Entry could be confined to a few access points and all the other forms of dilution being mooted during the Bill's committee stage in the House of Commons could be

effected. Slashing the resources available to the Countryside Agency for access would make the whole process of emasculation easier.

All this might sound ominously familiar to some of you. It's not unlike the fate which befell the access to open country provisions of the 1949 National Parks and Access to the Countryside Act. Local authorities were not enthusiastic; but central government retained quite a lot of power to get councils to take action if necessary. A change of government in 1951 and the advent of 13 years of Conservative rule meant that central government chose not to take the action needed to get the system to take off and, outside a handful of areas, notably the Peak District National Park, it withered away.

So will the new system peter out and eventually be forgotten? Well, downbeat though you may feel I've been up to till now, I don't actually think it will. There may be disadvantages in placing the system in the hands of the national agencies, but their energy and commitment will, I believe, ensure that access maps really will have been drawn up and pushed through the consultation and appeal processes within the five years we have probably got before a Conservative government has any chance of being elected. Once access land is on the maps, a future government will find it hard to abolish it, however much it waters down the meaning of the idea. This stage was of course never reached with the provisions of the 1949 Act, which were almost immediately at the tender mercy of a hostile government. This time demarcation of access land is likely to prove irreversible.

This is partly because the world has become so different from the way it was in the 1950s. The idea of public access to the countryside, whatever the form in which it is implemented, has touched a chord in an increasingly democratic and undeferential age. You have only to look at the attitude taken by newspaper columnists in recent years. People like Polly Toynbee, David Aaronovitch and Simon Jenkins have come more or less new to the subject and have instinctively supported a universal right of access to the countryside or something very much like it. The idea of access will undoubtedly survive the current proposals.

Although these will at most open up only 10 per cent of the land, and that subject to considerable exemptions, the existence of something called a "right to roam" will change people's attitude to their presence in the landscape. They will start feeling they have a right to be in the countryside instead of thinking of themselves as trespassers. So there will be a

change in the psychology of the people: they will think they have got more entitlement and that that entitlement involves being able to be off the public footpaths. As a result, both people who are more adventurous and people who can't be bothered to study maps will roam around more and more. There is probably going to be a lot more generalised trespassing over land not covered by the new scheme. And the absence of a logic for the limitations in the new proposals will encourage people to demand the right to go wherever they want.

While this is going on, a very different access regime will be taking shape across the border in Scotland. English and Welsh people holidaying north of the border will find that the strange limitations on access to the countryside which apply at home are unknown there. As in Scandinavia, they'll be able to go wherever their presence will do no harm. As in Scandinavia, this system is likely to work with no apparent difficulties. When they get back home, the English and Welsh will wonder why they can't have the same system here. In the Borders the contrast between the two approaches will become particularly striking, and doubtless will be highlighted by the media, for whom it will become a peculiar anomaly. Politicians wrestling with the fiddly and problematic aspects of the system devised for England and Wales will be increasingly drawn to an obvious solution: standardise the system throughout the UK - but on the Scottish model. In other countries which have taken a partialist rather than a universalist approach to access to the countryside, like Germany and Denmark, the tendency has been for the scope of the law to be ever further widened. This is, I think, where we are heading. It's why I am a keen supporter of the new arrangements for England and Wales in spite of the flaws I perceive in them. It's just that those of you who have to operate these arrangements are going to have a few difficulties in the interim. If I were you I'd have a stiff drink before going to sleep tonight. You may need it to fortify you for what lies ahead. But I still think you can consider it a drink of celebration as well.

Marion Shoard is the author of [This Land is our Land](#) (Gaia Books, 1997) and [A Right to Roam](#) (Oxford University Press, 1999)

WORKSHOP SUMMARY

ROLE OF LOCAL ACCESS FORA

Bob Cartwright, Head of Park Management, Lake District National Park Authority

(Workshop Leader), and

Susanna Perkins, Access and Conservation Officer, British Mountaineering Council

(Workshop Rapporteur)

Where Are We Now?

It is not often that our control-obsessed society allowed us to a free rein. Lack of guidance from the Government is both an opportunity and a threat. At its best, it is an opportunity to shape our own destiny. At its worst, it is a recipe for chaos.

Most likely, it has the potential to result in a number of models for Local Access Fora (LAF) which could make it difficult for the public to understand their role and remit. However, each could be (or evolve into) a workable model that local partners find valuable.

Experience of Workshop Members

Most people in the workshop had experience of working with local fora. There was useful input from Scottish colleagues regarding the model currently operating there. Ideas from the workshop included:

Role of LAF:

- Considering applications for closures of access to open country
- Rights of Way –improvement plans and contentious issues
- Mapping – acting as consultees or advisers on local issues
- Local recreation strategies
- Mediation
- A link to the National Countryside Access Forum will be needed

In Scotland, the role of the Forum is; mediation, promoting good practice and advice, and acting as Consultee.

What Should the Forum Do?

- Access to Open Country;
- Define local priorities within the context of wider recreational provision,
- Manage local hotspots, and
- Offer local vision and take into account local distinctiveness.
- RoW -- identify issues of importance and core path network.
- Should it enforce or advise? We felt that advisory and advocacy roles were valuable.
- Should it handle funds? Some experience in Scotland says yes but need to take care to avoid inefficient division of funds and responsibilities.
- Wardening -- Role in advising of/ advocating need and role for Rangers/ Wardens
- Promote dialogue -- increase understanding -- especially with groups not normally engaged in the process

How Should Local Access Fora Operate?

Structure

They will need resources; from local authorities (but note the value of volunteers' time and expertise), and the people on them will need support.

LAFs must fit into the context of; the National Countryside Access Forum, other LAFs, and local development and planning issues.

Right Representatives

LAFs must have an impartial and capable chair (or facilitator) and must have the right type of representatives - with a broad viewpoint to represent the needs of several interest groups.

Representatives must reflect:

- Local priorities
- People from outside the area
- Minority and normally disenfranchised groups

Other Comments Raised in the Workshop

How Should LAFs be Run?

- Find local experts -- not those with the strongest voice
- Final composition by agreement
- Right type of person is essential i.e. willing and constructive volunteers

- 15 to 20 on forum
- Flexibility to evolve as the issues relating to the right of access become clear in practice.
- A sense of ownership of their local strategy
- Keep it simple!

It may be difficult for a non-statutory body to be confident that its voice is heard by the Access Authority - a statutory body. Access Authorities need to set up systems that demonstrate they're listening. Include:

- Minority groups
- Parish Councils
- Landowners
- User groups – but which?
- Youth Hostel Association wardens could represent the views of an important interest group - people from outside the area.

Who Should Run LAFs?

'Who' depends of what scale is used. It must be relevant locally

How should the boundary be described?

- roads can be useful
- topography is a good starting point

LAFs must be serviced by one appropriate body.

How are Authorities to be Accountable?

- Annual Report of Forum
- Newsletter

WORKSHOP PAPER
CAN MANAGEMENT REGIMES ENCOMPASS ALL ACCESS ISSUES?

Ben Thomas

Access Advisor, Country Landowners' Association

(Workshop Leader)

Introduction

In 1997 the Labour Party manifesto stated, "*Our policies include greater freedom for people to explore our open countryside. We will not, however, permit any abuse of a right to greater access.*"

The provisions are now with us for a statutory right of access, the first part of the manifesto is being undertaken. What about the second part - preventing abuse of the right of access?

Inherent with providing additional access is the need for it to be effectively managed. Whilst access for the public, both able and less able, should not be unduly frustrated, the needs of land management and conservation interests must also not be compromised.

The Government stated a determination that any extension to access should not unduly interfere with other legitimate activities. These activities would be "*important for peoples way of life, for the protection of farm animals and for the protection of wildlife and archaeological remains.*"

The question exists, then, as to whether the provisions within the Bill will provide this access, without detriment to land management and conservation interests. The tools, theoretically, exist within the Bill, however, their detail and operation are as yet un-tested. It will be up to the countryside bodies, representative organisations, and practitioners to implement the provisions and make them work. This paper is designed to encourage thinking on issues that need to be addressed in the management of the statutory right of access.

What is Wanted?

Broadly speaking, the wish list of those providing the access land, and those wishing to use it are quite simple in respect of what is expected of the legislation:

Landowners:

- The ability to close or restrict access when required for relevant land management/ commercial use, and protection of wildlife,
- For the closures or restrictions to be heeded by the public,
- For anyone abusing of the right of access to be adequately dealt with.

Users:

- Access enjoyed safely by the mobile and less mobile, with or without dogs, and to all access land not subject to closures or restrictions, for whatever reasons.

What is Provided

Closures

The Government has stated that there will be a flexible regime in place to enable the closure of, or restriction to, land subject to the right of access for land management purposes . The Bill provides two systems, one based on a limited number of days which can be 'used' following notice being given by an 'entitled' person. The other by prior application, again by an entitled person, with subsequent permission being granted/not granted. In each case the Countryside Agency or Countryside Council for Wales, or if in a National Park, the National Park Authority, are the appropriate bodies to approach.

By Discretion - Access can be restricted at increasing levels of exclusion by choice of the 'entitled' person. This access may be:

- only exercisable along specified routes,
- only after entering at a specified place,
- without dogs,
- by persons satisfying other specified conditions, or
- total exclusion.

By prior notice given to the relevant countryside body, he may exclude or restrict access for any reason, to any area of access land, for one or more days up to a total of 28 days.

By Permission - a relevant authority may allow exclusion or restriction during a specified period for land management reasons only. The authority (or the Secretary of State) may impose only the minimum restriction consistent with the purpose for which it is sought.

Further Closure Provisions

The relevant authority may by direction exclude or restrict access in relation to any access land for a specified period under additional grounds. Those being:

- where there is particular risk of fire or danger to the public
- for the purpose of conserving flora, fauna and geological and physiographical features
- for the purpose of preserving any scheduled monument as defined by s.1(11) of the Ancient Monuments and Archaeological Areas Act 1979
- to preserve any other structure, work, site, garden or area which is of historic architectural, traditional, artistic or archaeological interest.

Issues That Need to be Considered

- There is no provision within the discretionary system to enable closure at weekends, or national and bank holidays.
- Where two or more persons have an interest in the same piece of land and wish to close it under the discretionary regime, the total number of days must not exceed the 28 day limit within the year. Who has precedence owner, tenant, shooting interest?
- Any part of a landed interest can be closed. How will these individual areas be identified?
- How is the application process going to be governed?
- What length of notice prior to closure will be required and will this allow sufficient flexibility for land management?
- Grounds for closure by permission are for land management. What constitutes land management - does it include shooting or sporting interests? Could landowners be prevented from closing for legitimate reasons?
- Appeals procedure - what will the time periods be?
- Guidance - this is required for users, occupiers and the authorities.

Notifying the Public

If the closure system is as flexible as the Government has suggested, and it works, will the public receive sufficient notice of what land is closed and where? If this is not possible, any closure regime becomes inoperable. How is this information to be made available?

Access points seem the best proposal at the present working in conjunction with other sources of information such as village notice boards, tourist centres, local shops, post offices and wardens. Although for the majority adequate notice of closure is favoured, there are concerns

that some practices, especially shooting, could be subject to disturbance because of the ample notice. Where there is opposition to this sort of activity, what system can be put in place to prevent abuse of the right in these cases?

There is currently operating in Scotland a system whereby the public can be informed of areas of access land where deer stalking is taking place. This is achieved through the use of recorded telephone messages which the public can phone before starting out on a walk. The message describes what land is unavailable. Should consideration be given to an equivalent system within England and Wales?

Wardens

There is a close link between the need for wardens, the prevention of abuse of the right of access and protection and conservation of wildlife and the environment. Wardening has proved essential to the satisfactory management of access in the Peak District National Park and other areas where there is significant public access. There are provisions within the Bill for authorities to appoint wardens for the purpose of:

- Securing compliance with byelaws and general restrictions
- To advise and assist both the public and land managers
- To perform other such duties the authority may determine

This is welcomed, but the question exists as to whether sufficient funding will be earmarked for a service to be fully available to all access land. If there is insufficient funding what could be the possible effects? Should there be a duty for authorities to provide wardens - so many per 1000 hectare, so many per 1000 visitor numbers?

The Government are relying on codes of practice with which to encourage responsible behaviour. This will not be enough - advisory messages need to be underpinned with tougher controls which can be enforced by wardens. It is not only experienced walkers that will be using access land.

Safety

On all access land, and any land that is dedicated by owners as such, the Bill imposes a reduced level of occupiers' liability. Both the 1957 and 1984 Occupiers' Liability Acts will be amended. Any duty imposed on access land by the 1957 Act is to be reduced to that which

would be owed to 'trespassers' (rather than the higher duty to 'visitors'). Under the 1984 Act no duty will be owed to those exercising the right, or following a breach of the right treated as trespassers, in respect of *natural features of the landscape*.

This provision assists the balancing act between providing access without unduly imposing on land ownership. It does not though, consider the features inherent in 'open' countryside. Should an owner be liable for accidents brought about by falling of stiles to aid access on open country, or stone walls; or tripping over objects, although man-made, several centuries old; or involving reservoirs or dew ponds?

Control of Dogs

Many people have dogs and wish to take them on walks with them, but dogs are one of the worst threats to livestock and wildlife on open land. Present restrictions are that dogs should be on leads between 1st March and 30th June, or when they are in the vicinity of livestock. The question is simple, are these restrictions really sufficient?

Managing the Challenge of Access

Many moors, lowland heaths, downs and commons are close to urban areas and subject to spontaneous dog walking trips; evening, Saturday, or Sunday trips; or days out. Greater thought needs to be directed at the management regimes that will be required to prevent any abuse of the right, interference with land management activities, or damage to habitats, particularly where use is intense.

There are many issues that need to be considered and it is not in the remit of this paper to try and list them all, or provide answers to them. What must be done is to think of what situations may arise and how solutions can be implemented. It is not suitable to argue that 'it may never happen'. The fact of the matter is that it might, and if it does, either the user will loose out, the land manager, or the habitat itself.

WORKSHOP PAPER
DEVELOPING CODES OF PRACTICE

Richard Davison

Recreation Group Officer, Scottish Natural Heritage

(Workshop Leader)

Introduction

In Scotland, the basic legislative proposal is for a right of access over land and water, exercised responsibly, for informal recreation and passage. What constitutes responsible behaviour is being described in a new Scottish Outdoor Access Code. This paper describes the process of developing the Code, sets out the basic aims and content of the Code, and highlights the latest thinking on producing shorter versions and on the likely promotion of the Code.

Developing the Code

In February 1999, the Government accepted the proposals of the Access Forum and Scottish Natural Heritage (SNH) as the starting point for legislation. The key proposal was for a statutory right of access, supported by a new Scottish Outdoor Access Code which would describe how this right is to be exercised responsibly.

The Government asked SNH to prepare a draft of this Code and to involve the Access Forum in this process. To take this work forward, the Forum established a sub-group and held two workshops to which a wide range of interests were invited. The Forum passed a draft Code to SNH in September 1999. This, in turn, was passed to the Scottish Executive in November. Further revisions have been made to help resolve several tricky issues. The next step in the development of the Code will be for it to be put out to consultation, alongside the draft access legislation, in the late Spring.

The Scottish Outdoor Access Code

Balancing rights and responsibilities is a challenge for all concerned and the Code is intended to provide the basis for this effort. It has been prepared as a detailed, technical document which indicates how the right of access is expected to operate in most situations. It is the

reference point for the much shorter codes which, at a later stage, will be needed for general public use and for specific interest groups.

The purpose of the Code is to:

- summarise and interpret the public right of access;
- describe what is responsible behaviour for people exercising the right, for land managers and for public bodies;
- advise people where to find out more and how to get help if a problem occurs.

It is expected that failure to comply with the Code will not of itself be an offence. However, it is expected that the Code will have an evidential status and so it could be used as evidence if it appears relevant to any question arising in legal proceedings. It is, therefore, equivalent to the Approved Codes of Practice produced under health and safety legislation, to the *Highway Code* and to the new Code of Practice under the *Disability Discrimination Act 1995*.

The basic structure and content of the Code is as follows:

- A set of key principles is provided which have underpinned the basic content of the Code;
- The introduction sets out the purpose and status of the Code, and defines some key terms;
- The public right of access, in terms of its extent and the main qualifications on it, is then described;
- The responsibilities of the public are then set out;
- The main responsibilities of land managers are described;
- These rights and responsibilities are then interpreted for both users and land managers;
- The duties, powers and responsibilities of public bodies are then set out;
- The final section tells people where they can get help and assistance;
- An index is provided to make the code more accessible.

The responsibilities of users are summarised in three principal groups. People are encouraged to minimise their impacts on the outdoors and the interests of other people by: being aware; showing responsibility; and, acting with care.

Land managers are encouraged to be more aware of the effect of their work on people exercising the right responsibly and to modify their activities, where reasonable and practicable, to minimise the effects on people exercising the right. Land managers are also

encouraged to work in partnership with public bodies to extend a welcoming approach towards public access.

Preparing Shorter Versions of the Code

The draft Code currently comprises about 13,500 words and sets out, in detail, the responsibilities of the public, land managers and public bodies. It is crucial that shorter, public versions of the full Code are produced soon. In drafting these shorter versions of the Code, consideration is being given to the content, structure and length of the main codes/leaflets for Norway, Finland, Denmark and Sweden. A summary of these is attached - Annex 2.

The latest thinking of the Access Forum and SNH is to produce several shorter versions of the full Code, along the following lines:

- *A quick guide for users.* This should be less than 500 words and set out very briefly the main features of the right of access and the main responsibilities on users (these are being aware, showing responsibility and acting with care).
- *A summary for users, land managers and public bodies.* This should be less than 1,500 words. It should summarise the right of access and the responsibilities of users, and briefly set out the responsibilities of land managers and public bodies. Advice should be given on what people should do if there is a problem and on where to get further help and information.
- *A practical guide for users.* This should comprise between 2,000 and 2,500 words and should provide a practical guide for users by interpreting rights and responsibilities in up to 20 different situations.
- *A practical guide for land managers.* This should comprise no more than 2,000 words and aim to provide a practical guide for land managers on the key issues likely to arise.

Promoting the Code

Promoting the Code and responsible behaviour generally is seen as vital in making the new right of access work on the ground. It is expected that SNH will be required by legislation to promote the new Code and its central messages about responsible behaviour. To achieve this, it is essential that:

- the new Code to be made as accessible as possible;
- information on the new rights and responsibilities, and on recreation and land management, to be made as accessible as possible; and

- a major programme of publicity and education is launched to support the Code.

To help with its accessibility, a concise, public version of the Code will be produced by late 2000 and circulated very widely soon after the legislation has been enacted. A wide range of leaflets, posters, publicity and promotional material, advertisements and more detailed codes for more specific audiences are envisaged.

Having good, up-to-date information will greatly help to encourage responsible behaviour. The *Hillphones* service, which seeks to provide hillwalkers with daily information on where stalking is taking place, is an excellent example of what can be achieved at relatively low cost. During 2000 and 2001, SNH will look to:

- establish a free *Scottish Outdoor Access Code telephone helpline* and a *Scottish Outdoor Access Code website* to provide people with information on rights and responsibilities, and on land management and recreation activities;
- expand the *Hillphones* service so that it covers much of upland Scotland;
- explore the feasibility of providing *Hillhone*-type services for other activities where readily available and up-to-date information to the public would be useful.

Representative bodies will be encouraged to revise their existing codes or to develop new ones to reflect the legislation and the new Code. As part of this, SNH could explore the feasibility of establishing a "kitemark" scheme whereby more detailed Codes could be endorsed by the Access Forum and SNH.

SNH has started to develop a programme for encouraging responsible behaviour and this should be ready by early 2001. The programme will set targets for awareness of the Code and of the key responsibilities within it. The programme will aim to use approaches like information campaigns, school programmes, television and radio notices, leaflets to tourists, and the Internet. It will also encourage publishers to print messages in books and magazines about the new rights and responsibilities. The programme is likely to concentrate on the following key groups.

- *The public.* Increasing the public's awareness of the Code and their responsibilities, and of activities in the outdoors, will be a key task. Within this broad group, recreational bodies should play an important role. Visitors to Scotland should also be targeted.

- *Clubs and representative bodies.* Clubs and representative bodies of recreational interests will be an important target group. Particular advice might be needed for when events are to be organised by a club.
- *Outdoor activity businesses and event organisers.* Although this is a relatively small group, they can have a great influence through the range of activities that they undertake, the scale or regularity of the access required, and the opportunities they provide to reach large numbers of people.
- *Equipment manufacturers and media firms.* There is now a very substantial market for outdoor equipment and for publications (from books to magazines) and other promotional material. Targeting these organisations could reach a lot of people; everyone needs to purchase equipment, for example. Publications for land managers, as well as for the public, should be targeted.
- *Land managers.* Land managers will have new responsibilities and they will need to be supported in meeting these. Relevant organisations (e.g.. National farmers' Union of Scotland, Scottish Landowners' Federation, Scottish Crofters' Union, Royal Institution of Chartered Surveyors' Timber Growers' Association) should all play a role in advising land managers.
- *Staff of Councils and other public bodies.* Within Councils a variety of staff could be targeted, including those working in planning departments, leisure and recreation departments, education departments and transport departments.
- *School children.* Long-term efforts to encourage responsible behaviour in the outdoors should begin at school and the Government should identify ways of introducing this into the school curriculum, such as through *Learning for Life*.

Conclusion

The Scottish Outdoor Access Code will play a crucial role in helping to make the right of access work on the ground. So far, effort has gone into making the new Code applicable to a wide range of activities, settings and situations, i.e. making it a reference point for the shorter versions of the Code that will be required. Whilst this provides a strong, comprehensive foundation for describing what constitutes responsible behaviour, the challenge lies in condensing the full Code into shorter versions without losing anything critically important.

The link between the Code and a new duty on SNH to promote it is seen by many as vital to success. SNH has begun the process of developing a programme to promote the Code and responsible behaviour.

WORKSHOP PAPER
ACCESS BESIDE WATER

Andrew Graham
Recreation Officer, Environment Agency
(Workshop Leader)

Current Availability of Access Beside Water

The amount of water to which people could potentially have access is vast. Rough calculations indicate that in England & Wales, there are:

- 60,000kms of river
- 2000kms of canal
- 1600 lakes
- 250 reservoirs > 500ml

Indeed British Waterways suggests that all of the population lives within 5km of a water resource of some kind. The extent of this resource is virtually fixed; the exception being gravel pits restored as lakes and newly created reservoirs.

Most inland watersides are owned privately. Some are inaccessible in legal terms although many are subject to licence and lease arrangements with angling clubs. There is no comprehensive data available on the extent of access rights specifically beside water. However, a personal observation is that it is often the medium size rivers to which access is most restricted.

Rights of access to watersides are often based on historic use of the waterway for navigation. Routes used as towpaths, access to wharves, ferries and launch sites have become rights of way. Where navigation use did not occur, waterside access appears to be less common and is certainly more fragmented. As a result those who live remote from navigable waterways, reservoirs, lakes and gravel bearing areas may have comparatively poor access to watersides.

Schemes such as Countryside Stewardship, Tir Cymen and Tir Gofal provide access opportunities to watersides as do permitted paths and permitted access to waterside areas. It is unclear the extent of the access provided by those mechanisms.

Water companies are subject to the DETR/MAFF Conservation, Access and Recreation Code of Conduct. This places the duty on them to make their waters or land available for recreational use where reasonably practical. This ensures that access to many reservoirs is available.

The UK Day Visits Survey estimated that about 200 million visits are made annually to rivers and canals. However, there appears to be demand for more of the same. The MVA study commissioned by the Countryside Agency in 1999 found that most people feel that there is some restriction on their access to waterside and more than three quarters of the population positively supported the idea of the government introducing improved rights for people to use watersides.

Obstacles to Waterside Access

There is a range of problems that can make present access to watersides unsatisfactory. Many existing potential routes are fragmented. This may be because ferries or bridges have been lost, or a desire line alongside a watercourse is blocked by a tributary. Developments or domestic curtilages may block a through route with no way round making the existing route valueless.

It can take a great deal of time to negotiate new permitted or definitive routes even in seeming optimistic circumstances (e.g. the Thames Path).

It can prove very difficult to develop walking routes along riversides that actually follow the waterside for much of their length. The Thames Path benefits from most of its length following the old navigation towpath. Other routes follow canal towpaths in a similar manner. However, many other routes, the names of which might lead the innocent to expect a riverside walk, are really river valley walks. The Test Way for example, is based on a disused railway line and provides comparatively little waterside access. This is not to say that routes which slavishly follow the waterside are the ideal to be aimed for. A route which provides a variety of scenes, including access to the waterside may be the ideal.

Another problem can be the loss of a path by erosion. Fencing, boundaries with other properties etc. can mean that a path may become impassable or lost completely after bank

erosion. Even where rights of way beside water exist they may not be easily or logically accessible from public roads or the route of the path network.

There may be locations where established permitted area access beside water is conditional on the existing land-use. If pasture is converted to arable, such access may be lost. In areas where access is poor the pressures on those locations where access is possible can be severe. Such "honey pots" become degraded and cause a reluctance in others to open up new sites elsewhere.

The creation or negotiation of new routes may be hampered by current agricultural activity. Cultivation close up to the bank of a watercourse can either leave little space for a walking route or the land left is too overgrown to allow access anyway.

Concerns Surrounding Increased Access to Watersides

Water and watersides are essentially very different to the other land types considered in the preparations for the Countryside Bill. There are so many different types of watersides for some of which the definition of where the water ends and the waterside starts is far from clear; reed-marsh, swamp, earth bank, fen, bench, carr. There is great variability in the ability of these habitats to withstand access pressures. The wildlife value of water-edge habitats can be great providing breeding, roosting, feeding and migratory locations for many species.

Recreational use of other "access land" types will to a certain extent be diffuse across an area with pressure localised only at access points. By definition waterside access focuses the users onto a small strip, the interface between the water and the land, so the potential for excessive pressure is greater.

Existing users, notably anglers, who have negotiated and paid for access to waterside for their activity are reluctant to share it with other who do not pay. There is a desire to retain the exclusivity that has been bought, and a concern that new access will disturb both them and the fish so leading to a reduction in their enjoyment.

Riparian owners may make considerable amounts of income from their fisheries. In the case of valuable trout or salmon beats this may be thousands of pounds a year. They perceive that this income would decline if public access were allowed. If income declined they will be less

able or prepared to invest in the habitat management undertaken to encourage fish stocks and this could have negative impacts on wildlife and landscapes.

There is also concern about the safety implications of allowing new access to areas used by anglers, although walkers and anglers do appear to co-exist on those river and canal banks where they both currently have access. Other concerns about safety and multiple use revolve around the way that access on foot may allow/encourage access on horseback, cycle or motorcycle. Similarly there is concern that access on foot might allow bathing or boating and could cause erosion to the bank as disturbance of vegetation when entering or leaving the water.

While there are similarities, the arguments about damage to angling are different to those relating to grouse shooting on moorland in that the angling is far more localised in the same place as the access is proposed, and could potentially be taking place for most of the year rather than on a limited number of days when access could be excluded.

Other safety concerns relate to hazards to visitors from flooding, weirs, waterfalls, silt lagoons, deep water reservoirs, dams etc. For safety reasons the public may have to be excluded from watersides when operational works are being carried out; this particularly applies to navigation and flood relief channels. The retention of permitted rather than a statutory right of access is seen as being essential to operational flexibility.

Implications of the Bill and Other Current Initiatives

Access beside and onto water was considered by Countryside Agency (CA), Countryside Council for Wales (CCW), Forestry Commission (FC), Environment Agency (EA) and English Nature (EN) during their review of access to "other" open countryside. The complexity of access onto water meant that there was insufficient time to deal with it in sufficient detail so attention focused on access beside water. Recommendations from CA suggested the targeted use of existing powers, rights of way creation/agreements as the best way to deliver increased access to watersides.

Access besides water although being mentioned in the House in the lead up to the Bill is not specifically mentioned in it. At least one amendment has been tabled seeking the extension of

the Bill's scope to include it. The Bill does stipulate that the use of vessels, sailboards and bathing is precluded within access land.

However there will be streams, rivers, ponds and lakes that fall within the registered commons and "access land" so the public should have access beside these waters. Or will they? Will pressure be exerted to exclude those parts of the area during the mapping process, especially if the fishing rights are of high value?

The Rights of Way Development Plans (RoWDP) proposed in the Bill offer the opportunity of a vehicle for the identification and creation of targeted new routes beside water as recommended by the Countryside Agency. But will the RoWDPs have so much work to do on the existing network that it will be long time before it is possible to address new routes?

Similarly the Local Access Fora, if they are truly concerning themselves with all countryside recreation, will offer a vehicle for assessing need and identifying new routes. This could be a way to negotiate consensus so that potential conflicts can be resolved and damage to habitats avoided. But again will waterside access be a low priority at least at first?

Increased access to water near towns may be delivered through local transport plans as the Transport White Paper encourages local authorities, when drawing up the documents, to make better use of towpaths and other watersides for walking and cycling.

Some Practical Examples

Thames Path National Trail: This path, now well established and well used, is the result of a long standing vision and desire on the behalf of ramblers and the Countryside Agency. It took many years of consultation, selection of the favoured route and its endorsement by Government followed by implementation, provision and ongoing management. However, even on this route which seemed to be logical, which had such widespread support and which was based on an existing towpath along the majority of the river, took many years to create. Negotiation of "missing links" took a great deal of time and effort – individual landowners could block the creation of sections of route, while bridges, as well as costing significant sums took time to negotiate planning permission.

Blackwater Valley Path: Different to the Thames Path in that there were very few waterside rights of way in place at the outset. However, in a river valley rich in aggregate reserves which are planned for extraction over a period of years, a long term plan to secure a series of linked paths was agreed. Through the creation of new routes sequentially as gravel extraction permissions were exploited, it has been possible to create a chain of walks that link to existing rights of way network and car parks. This incremental approach could only work with a long-term plan agreed between a number of local authorities.

Thames Riverside Meadows: Port Meadow, Oxford and Cock Marsh, Cookham are good examples of extensive areas of waterside land to which the public have free access. Because parking is restricted to the perimeter of the sites, pressure is spread and grazing continues so maintaining the value of the sites and their Site of Special Scientific (SSSI) status. Winter flooding doesn't cause the safety problems sometimes envisaged.

WORKSHOP SUMMARY ACCESS BESIDE WATER

Jane Rollins

Environmental Planner, Waterway Environment Services, British Waterways

(Workshop Rapporteur)

Andrew Graham from the Environment Agency led the workshop on the current availability of access to watersides and implications of the proposed legislation on such access. He suggested that the group address the following question: *'Was the exclusion of access to watersides from the Bill significant or will alternative mechanisms deliver sufficient new access where needed?'*

Key Issues on Access to Watersides Arising from this Workshop:

- 75% of the population want more access to the waterside
- Obstacles to access include: fragmentation of network; new access is difficult to negotiate; loss of existing paths etc.
- Concerns over the effects of access include: watersides are different to other types of access land; disturbance to wildlife; fragility and erosion of waterside habitats; erosion of banks from trampling; definition of watersides; existing users eg. anglers; walking encourages other users/activities e.g.. swimming; space constraints; floods; impact on landowners income; impact on operational aspects etc.
- There is a need to maintain the tranquillity and 'seclusion' of certain areas of waterside – an aspect that may be affected by open access.
- Debate over the pros/cons of concentration versus dispersal of access/visitors

Key Issues on Access on Water Arising from the Workshop

- Estimated that there are some 5,000km of navigable river/waterway in the UK
- Main source of conflict is the dispute between users e.g.. canoeists and anglers, particularly the issue of paying for water access .
- One of the best means to secure access is through access agreements with the landowners
- One of the solutions to access is through access and user fora – to raise awareness and understanding between the different user groups (works well if the group can work towards specific objectives and is not just a 'talking shop').

- Concern over the Salmon & Freshwater Fisheries Review – which is proposing an end to the close season (as this will affect existing access agreements for canoeists on certain rivers)

Implications of the Countryside Bill on Waterside Access:

- Review of 'other' countryside
- Watersides not specifically mentioned in the Bill (although amendments are being proposed)
- Vessels, sailing and bathing are specifically precluded
- What will happen to watersides where they pass through an area of open access e.g.. where a canal runs through an area of heathland or moorland?
- Rights of Way Development Plans will be looking for gaps in the network?

Conclusion

In terms of access to waterside and access on water (in England & Wales), the group concluded that it is right to exclude watersides from the list of 'open access' areas in the Countryside Bill, as there are plenty of issues still to be sorted out for the existing list (and will be for many years to come!). Designating towpaths as rights of way as opposed to the current permissive arrangements is unlikely to deliver significant additional benefits for access. For Scotland, the access mechanisms are different – and there will be a lot we can learn from the existing Scottish experience of access to watersides and on water.

WORKSHOP SUMMARY
OPEN LAND/ EXCEPTED LAND

Graham Barrow
Consultant
(Workshop Rapporteur)

The discussion was introduced and led by Gareth Roberts of Countryside Council for Wales (CCW) who described the process to be followed in Wales to map the proposed access land. This would be based on a GIS system to initially record the distribution of common land and the categories of habitat/landscape outlined in the legislation. The precise boundaries would then be drawn, taking into account readily recognisable features on the ground, such as field boundaries, roads and streams. The access fora and landowners would be consulted with the draft maps and they would be modified if representations were felt to be acceptable. An appeal process was provided for.

Discussion focussed on a number of points:

- *The scale of the exercise* was discussed. Was it better to start at a broad brush level, outlining large tracts of countryside within which access would be generally accepted and then clarifying the boundary and excluded areas within it, or was it best to build up the picture from the detail as described above? The bottom up approach was generally felt to be best.
- *The production of a detailed map* could open up a "can of worms" with regard to objections and clarifications and lead to a large amount of detailed work and checking on the ground. Nevertheless it was felt that the effort was necessary if the eventual end product was accepted and had a long and relatively unchallenged life.
- *The problem of "island" access sites* with no paths to them remained unsolved.
- *Local Access Fora* would be very important in the process, but what geographical area should they cover? Ideally they should be very local as this is the level of detail required to be discussed. But it was more likely that they would be at county scale and there would be the problem of real local knowledge. There was the inevitable discussion about representation on the Fora.
- *Clarity and openness* was seen as a necessary and crucial aspect of the process.

- *Maps* would be eventually published, probably in partnership with the Ordnance Survey (OS). It was probable that the areas would be marked on the 1:25,000 and 1:50,000 sheets in a similar way to National Trust land.
- *Central Government Agencies such as the Countryside Council for Wales and the Countryside Agency* were thought to be the correct organisations to co-ordinate this exercise but there had to be a strong input from the local authorities, probably through the Access Fora.
- *Excepted land* would be identified as not requiring public access. One of the possible difficult categories would be "parkland" which by its very nature and name would appear suitable for public access but landowners could have defined as "excepted". Where "parkland" was in public or National Trust ownership it was likely that public access would be encouraged.

WORKSHOP PAPER

A STATUTORY RIGHT OF ACCESS TO THE COUNTRYSIDE

The application of closures and restrictions on access land

Graham Bathe

Access to Countryside Project Officer, English Nature

(Workshop Leader)

The Countryside and Rights of Way Bill is currently progressing through Parliament. If enacted as drafted, the Bill will grant a statutory right of access on foot (and with provisions for disabled access, but not extending to other vehicular access or horses) to specified categories of open countryside, namely mountain, moor, heath and down, and to registered common land in England and Wales. Additional legislation extending to all land and water is proposed for Scotland, and other arrangements are yet to be considered for Northern Ireland.

Contrary to the way that the legislation is presented in the media, there will be no right to roam, and the Bill will instead allow responsible access to the specified land categories, for those people adhering to listed general restrictions, and subject to any site specific requirements which may apply during particular periods. The Framework Document of March 1999 which announced the Government's intention to legislate, anticipated that there will be some circumstances where access should be restricted or limited. Michael Meacher's foreword emphasised the need to respect the countryside, and stated "*greater freedom would become self defeating if the landscape itself were harmed, its tranquillity eroded, and its wildlife put at risk. There will be restrictions ... to take account of conservation, defence, and health and safety interests*". The Countryside and Rights of Way Bill (as drafted at 31 March 2000, and currently subject to proposed amendments at committee stage) will allow land to be closed for up to 28 days per year at the discretion of landowners.

It will also permit the so-called relevant authorities (the Countryside Agency, National Parks Authorities and Countryside Council for Wales) to apply closures or restrictions for a variety of further reasons. Closures may involve denying access to the land over large or small areas, temporarily, seasonally or permanently. Restrictions may be relatively minor, such as requiring dogs to be on leads at all times of year, or requiring people to enter through pre-determined access points, or they may more significant, such as requiring confinement to

linear routes, seasonally or permanently. In addition to statutory mechanisms for addressing issues, there may be non-statutory management methods which may be applied, though for example, the provision of appropriate infrastructure or wardening.

Closures and restrictions may be sought and applied for the following reasons:

- *For additional management purposes* (i.e. beyond the 28 day discretionary period available to owners each year) following application from the owner or tenant. It is the intention of the Bill to permit normal land-uses and management activities to continue, but it is currently unclear which management practices actually require statutory intervention. Management practices which may be involved include tree felling, spraying, burning, scrub-clearance, game management, hunting, shooting or other pest-control and lambing.
- *For the purposes of conserving flora, fauna, geological or physiographical features, or protecting heritage features.* In reaching their view on the need for this, the relevant authorities have to have regard to representations made by English Nature or English Heritage. Issues of concern raised by nature conservation bodies include disturbance to ground nesting birds, trampling and erosion, habitat degradation or enrichment, difficulties with grazing or other management regimes, susceptibility to collectors, damage from dogs etc.
- *To avoid fire risk or for reasons of public health and safety.* The relevant authorities will be able to close land upon application by those with an interest in the land, or without such application. The Bill will permit closures for fire prevention purposes by reasons of any exceptional conditions of weather, or to avoid danger by reason of anything done on the land or on adjacent land. Much land in the countryside involves an element of risk, ranging from natural or naturalised features such as ponds, ditches and dykes, cliffs, crags, scree-slopes, overhanging branches and veteran trees, to essentially man-made features such as quarries and pits, or the presence of unexploded shells. In certain cases man-made features, such as ruins and stone walls, can develop into essentially traditional parts of the landscape.
- *For reasons of emergency.* The type of emergency envisaged is not specified in the Bill and may be clarified through regulations.

The closure or restriction regime will require a complex management structure, through which authorised bodies and those with an interest in the land can make representations, a level of consultation may ensue, and the results of decisions disseminated appropriately, including to potential users of the countryside. Information management is going to be a key feature of successful implementation of the legislation, since certain land may be closed or subject to a variety of restrictions in different periods, and it will not be possible for users to simply respond to current weather conditions and presume that all access land will be available.

Because the statutory right of access is an emotive and highly political issue, the system will be closely scrutinised. Those wishing to oppose or minimise access on land may seek to invoke a range of reasons for closure, and all restrictions are likely to be examined by those seeking to maximise opportunities for access. There is a need to develop simple and effective mechanisms which are fair, proportionate, permit normal land management systems to be maintained, achieve protection of important wildlife or heritage features, and do not compromise safety, whilst not compromising the spirit of the Act, which should provide the least restrictive general level of access possible on the greatest area of qualifying land.

The workshop will address questions selected from the following topic:

- *To what extent are land management and access compatible?* When is it necessary to apply statutory restrictions on land for management reasons beyond the 28-day discretionary period available to all owners? What range of activities are likely to justify closure or restriction, at a national or site-specific level? Are there alternatives to statutory mechanisms? What steps can be taken to ensure that the proposed mechanisms are likely to work?
- *When is it justifiable to close or restrict access to land for health and safety reasons?* What sort of risks require statutory restriction? Who should carry the risk, amongst the various interested parties of countryside user, landowner and relevant authorities? Are there alternatives to statutory mechanisms?
- *To what extent are nature or heritage conservation and access compatible?* When is it justifiable to apply closure or statutory restrictions for nature or heritage conservation purposes? What range of interests are considered to be sensitive to access pressures?

What is the range of statutory restriction needed. Are there alternatives to statutory mechanisms? How will the restrictions applied under the Countryside and Rights of Way Bill relate to other protection for wildlife and heritage features provided under other existing legislation? How should one use and not abuse the precautionary principle?

- *Once a closure or restriction is in place, how will these operate?* How will information be disseminated, and enforcement undertaken?

WORKSHOP SUMMARY
CLOSURES AND RESTRICTIONS

John Ablitt

Head of Recreation and Information, Snowdonia National Park Authority

(Workshop Rapporteur)

The Workshop addressed a number of questions relating to closures and restrictions over Access land and particularly concentrated on:

- The reason for closures in terms of management and conservation
- The different levels of restrictions available and when they would be appropriate
- The variety of methods available to restrict and manage access.

The Workshop felt that great care would be needed in management of closures by landowners and for conservation. The system would have to be fair to all and the potential for abuse of the system was recognised. In particular, it was felt that partnerships with landowners would have to be developed and that managers should not go over the top in terms of access management measures until the scale of the actual usage was known, there is a distinct danger of over reaction.

In conclusion, it was felt that a balance was needed between the statutory and non-statutory measures to enable the system to work.

ANNEX 1. ORGANISATIONAL RESPONSIBILITIES FOR ACCESS MANAGEMENT IN WALES								
(Based on Proposals set out in the Government's document "Framework for Action" March 1999)								
Organisation	Secretary of State/ National Assembly for Wales *	Countryside Council for Wales	Other Statutory Agencies (HSE, CADW)	National Access Forum **	Local Access Fora ***	Unitary Authorities (outside national parks)	National Park Authorities (in national parks)	Land-owners affected
Responsibility								
Mapping of Access Land	Appeals	✓						Consulted on draft and review maps
National Access Register		✓				Exchange information	Exchange information	Supply information on temporary closures and excluded land
Long-term closure of, or restrictions on, specified archaeological interests, or in the interests of health or safety		✓ for nature conservation reasons	Consulted: may apply closure		Consulted	Notified of restrictions/closures	✓	May apply for closure
Long-term closure of, or restrictions on, specified area to protect defence interests	✓ MoD	Consulted			Consulted	Notified of restrictions/closures	Consulted	Consulted
Temporary suspension of access for any reason (28 days)		Notified of closures				Notified of closures	Notified of closures	✓
Temporary suspension of access for land management		✓except in national parks, where notified of closures			Consulted	Notified of closures	✓	May apply for closure
Increased control over, or exclusion of, dogs		Notified of restriction			Consulted	✓	✓	May apply for restrictions
Restrictions on hours of access, e.g. limited to around daylight hours	*	Notified of restrictions			Consulted	✓	✓	May apply for restrictions
Byelaws to control undesirable behaviour or inappropriate activities	✓ Confirmation	Notified of restrictions ✓			Consulted	✓	✓	May apply for byelaws
Codes of practice for landowner/ user	Consulted	✓		Consulted				Code applies

ANNEX 1. ORGANISATIONAL RESPONSIBILITIES FOR ACCESS MANAGEMENT IN WALES

(Based on Proposals set out in the Government's document "Framework for Action" March 1999)

Organisation	Secretary of State/ National Assembly for Wales *	Countryside Council for Wales	Other Statutory Agencies (HSE, CADW)	National Access Forum **	Local Access Fora ***	Unitary Authorities (outside national parks)	National Park Authorities (in national parks)	Land-owners affected
Responsibility								
Provision of means of access to inaccessible islands	Appeals				Consulted	✓	✓	Consulted
Asserting and protecting public rights of access [not yet agreed]	Appeals				May be consulted	✓	✓	(Object of action)
Grants for access furniture		✓			May be consulted	✓	✓	Must apply for grants ¹
Wardening		✓			May be consulted	✓	✓	May apply for assistance

* NAW may specify arrangements under negative resolution provisions

** CCW has been asked to develop a National Access Forum in Wales

*** CCW has been asked to draw up good practice guidelines on the membership, role and operation of the fora, and to ensure effective geographical coverage

¹ Grant awards would not be made without a qualifying application from a landowner. Authorities might alternatively provide assistance in kind (such as stile kits/ installation)

ANNEX 2. SUMMARY OF SCANDINAVIAN CODES AND LEAFLETS

Norway

The basic material (in English) seeks to interpret their public right of access. The right of access is described as an ancient right (Allemansrett) confirmed in legislation. The basic interpretation is provided on one double-sided A3 sheet of paper (comprising about 1,600 words). This sheet is supported by more detailed (though quite repetitive) material for particular activities (walking, cycling, horse riding, camping, fishing and picking berries).

The basic sheet is structured as follows:

- an ancient right confirmed in the outdoor recreation act
- do you know the difference between cultivated and uncultivated land?
- the public right of passage gives the right to....
- the public right of access also imposes obligations
- staying the night, picnicking and camping
- caravanning along the road
- boating: going ashore, mooring and anchoring for the night
- picking berries, mushrooms and flowers
- hunting and fishing
- the right of the landowner to restrict free access
- in the event of a disagreement

Finland

The right of access is a common law right, supported and limited by legislation. The main English leaflet describes the rights and responsibilities associated with public access to the countryside. It is quite detailed and is illustrated (a mix of factual and comical). It comprises about 3,500 words. The leaflet is structured as follows:

- introduction
- out and about
- camping out
- the fruits of the forest
- lighting fires
- litter
- dogs and cats
- driving off road

ANNEX 2. SUMMARY OF SCANDINAVIAN CODES AND LEAFLETS

- snowmobiles
- boating
- fishing
- hunting
- interpreting everyman's right
- the authorities
- everyman's right: a practical summary
- contact addresses for more information

Denmark

Denmark has quite a complex piece of legislation on access which lays down quite specific responsibilities (e.g. times of the day when the right applies, distances from buildings). "Welcome to the countryside - but tread softly" is the basic leaflet in English. It is detailed, lengthy and with a mix of presentational styles (including a very complex table). It runs to 16 A4 pages and comprises about 7,500 - 8,500 words. The structure is quite complex:

- In pastures green
- Denmark was created with the countryside as its back garden
 - listen - and enjoy the sounds of nature
 - dogs love the country
 - born yesterday - see them today
 - I hear lake water lapping
 - when you go down to the woods today...
 - a fire is quick to start, slow to put out
 - far from the madding crowd
 - ask first
- Meet Denmark's greatest singers in the wood
 - there is privacy to be found in the public forests
 - on horseback in the Danish forests
 - start dinner with some deep knee bends (picking mushrooms!)
 - avoid the straight and narrow
- To all beachcombers - young and old
 - take even greater care in the dunes
 - when the autumn storms rage

ANNEX 2. SUMMARY OF SCANDINAVIAN CODES AND LEAFLETS

- Things are so glorious in the countryside
 - the lanes and paths of the countryside are there just for you
 - ask permission if you are in a flock
 - you don't have to feel fenced in
 - free flower market
 - the banks of our streams and lakes are uncultivated and reserved for nature's own tenants
- Rules for public access to the countryside - and some important phone numbers

Sweden

The Swedish right of public access is based in common law (Allemensretten). The basic leaflet in English "Right (and wrongs) of public access in Sweden - points to remember when enjoying the outdoors" is short, comprising about 1,200 - 1,300 words. It is supported by more detailed leaflets on lighting fires and canoeing (there may be more than these two).

The structure of the basic leaflet is:

- don't disturb and don't destroy
- respect people's privacy
- no motor vehicles off the road
- camping
- lighting fires
- swimming and boating
- take your litter home with you
- picking flowers and berries
- dogs
- hunting and fishing

ANNEX 3. 'MANAGING THE CHALLENGE OF ACCESS' PROGRAMME**Programme****Day 1**

- 10.30 Registration and Coffee
- 11.00 Welcome and Introduction by Chairman
Richard Williamson *, *Buccleugh Estates Ltd. Scotland*
- 11.15 Where we are with the legislation and implementation timetable - an overview across the UK
Paul Mutch *, *Countryside Agency*
Gareth Roberts, *Countryside Council for Wales*
Richard Davison, *Scottish Natural Heritage*
Ross Millar *, *Department of the Environment (NI)*
- 12.30 - 13.30 Lunch
- 13.30 Field visit to 3 sites in the Peak District to examine and discuss practical management arrangements for access to open country and other land.
- 17.30 Feedback from field visit. **Jo Burgon**, *National Trust*
- 19.45 Dinner
- 21.00 **Marion Shoard**, *Lecturer and author of "A Right to Roam"*

Field visits

To look at working examples of practical management in the Peak District visiting 3 sites with varying degrees of access, identifying the issues involved and seeing good practice in action.

- **Moscar Moor and Cutthroat Bridge** - A moor not under an Access Agreement but Rights of Way across the moor. Discussion of issues with the owner.
- **Ashop Moor, Snake Pass and Pennine Way** - Part of National Trust High Peak Estate with open access and adjoining privately owned moor under an Access Agreement. Discussion of issues with Property Manager
- **Chunal Moor, near Glossop** - An actively managed grouse moor with Access Agreement. Discussing issues with the Keeper.

ANNEX 3. 'MANAGING THE CHALLENGE OF ACCESS' PROGRAMME**Day 2**

9.00	Introduction to workshop sessions Jo Burgon , <i>National Trust</i>
9.15	Workshop Session 1 <i>Selecting one workshop from a choice of four</i>
10.30	Coffee break
11.00	Workshop Session 2 <i>Selecting one workshop from a choice of three</i>
12.15	Reporting back from workshop sessions
12.45	Plenary Session <i>Summing up and discussion of the workshop findings</i>
13.00	Close/ Depart

Workshops

Workshops based on case studies relating to the management of access in different areas and situations and workshop will provide a forum to share management experiences and to draw some conclusions on the way forward. The workshops are as follows:

1a. Development of Codes of Practice, *led by Richard Davison, Scottish Natural**Heritage*

How could codes of practice be developed, publicised and promoted?

1b. Closures and restrictions, *led by Graham Bathe, English Nature*

What would constitute a necessity for closure and restriction?

1c. Open land/ excepted land, *led by Gareth Roberts, Countryside Council for Wales*

How could types of land be identified as open land and how can they be mapped?

1d. Access to Water, *led by Andrew Graham, Environment Agency*

The current availability of access to watersides and implications of proposed legislation on such access

2a. Information and promotion, *led by Anne Ewins *, Countryside Agency*

How would information be presented and what type of information media used?

2b. Management of Access, *led by Ben Thomas, Country Landowners' Association*

What management regimes would there be and how could they encompass all access issues?

2c. Role of Access Fora, *led by Bob Cartwright, Lake District National Parks' Authority.*

What roles would local access fora play and how should they be run?

* Paper not submitted.

ANNEX 4. SPEAKER AND WORKSHOP LEADER BIOGRAPHIES**Graham Bathe***Access to the Countryside Project Officer, English Nature.*

Since obtaining a BSc in Biology from Exeter, and an MSc in ecology at Aberdeen, Graham has spent the last 25 years working in nature conservation and related issues in a variety of posts in this country and overseas. He has worked for a County Wildlife Trust leading an ecological survey, for a County Council on waste disposal and pollution, for the National Trust as part of their biological survey team, for the International Council for Bird Preservation in charge of a small island nature reserve in the Seychelles, as a senior reader whilst writing up research data at Exeter University, and since 1982 for English Nature and its predecessor the Nature Conservancy Council, working in 10 English Counties and leading teams based in various locations. He is currently taking English Nature's lead on issues relating to access to the countryside, as given in the Countryside and Rights of Way Bill, working on detached duty with the Countryside Agency and based at their office in Salisbury.

Bob Cartwright*Head of Park Management, Lake District National Park Authority*

Bob Cartwright holds a Diploma in Town and Regional Planning from the Duncan of Jordanstone College of Art, Dundee University (1976). His thesis was on the topic of National Parks and Access to the Countryside and he was the top student in his last year gaining the Royal Town Planning Institute Prize for performance in final examinations. He is a Member of the Royal Town Planning Institute.

After a period of time as a Planner with the North York Moors National Park Authority, he was promoted to co-ordinate the management of that Authority's Upland Management Scheme and in 1987, became Head of Land Management.

In 1992 Bob was appointed to the post of Head of Park Management with the Lake District National Park Authority. He is responsible for the management of land owned by the Authority, its Ranger and Estate Service and for co-ordinating policy and practice concerning recreational and agricultural land management. The Lake District is the largest National Park in the United Kingdom (2292 sq. km.) and contains England's highest

ANNEX 4. SPEAKER AND WORKSHOP LEADER BIOGRAPHIES

mountains. The Park attracts more than 20 million visits each year. There is a resident population of 42,000. It is a candidate World Heritage Site. The Authority is responsible for the management of a rights of way network that exceeds 3000km. The Park contains more than 100,000 hectares of open country.

In recent years, Bob has been at the forefront in developing effective planning and management techniques in rural areas, which reconcile the often conflicting interests of agriculture, recreation and conservation. Local people and users have been at the heart of the process. Examples of good practice include the establishment of fora to enhance the management of property owned by National Park Authority, and with extensive local involvement, the production and implementation of management plans for two major mountain massifs. Best practice techniques for path management in mountain areas have been published, as has a code for group use of climbing areas. Successful measures have been introduced to combat the damaging effects of large scale recreational events, mountain and trail biking and 'off road' four wheel driving.

Richard Davison

Recreation Group Manager, Scottish Natural Heritage

Richard has worked for the Countryside Commission for Scotland and then Scottish Natural Heritage since 1989. He currently manages the Recreation & Access Group within Scottish Natural Heritage (SNH) and is Secretary to the Access Forum in Scotland. Richard is closely involved in the development of proposals for new access legislation in Scotland and in drafting a new Scottish Outdoor Access Code.

Anne Ewins

Senior Policy Officer, Countryside Agency

Anne Ewins joined the Countryside Agency's National Access Team in January to co-ordinate its information and communication work throughout the period of open access legislation and its implementation. In the previous 15 years with the Countryside Commission her responsibilities have included Press Officer and Editor of 'CC News', agricultural policy reform and planning policy. Before that she did press and publicity work in local government and the Central Office of Information in Yorkshire.

ANNEX 4. SPEAKER AND WORKSHOP LEADER BIOGRAPHIES**Andrew Graham***Recreation and Navigation Officer, Environment Agency*

After studying Environmental Sciences in the mid 1970s, Andrew worked in a range of country parks and countryside projects in Dorset, Wales, Scotland and Essex. After a brief spell as Countryside Officer for Berkshire County Council, he joined the National Rivers Authority (NRA), Thames Region in 1991 as Recreation Officer. He is currently Navigation and Recreation Officer at the head office of the NRAs successor, the Environment Agency, where he has recently been taking the lead on the Agency's input to the Access to Open Countryside proposals.

Ross Millar*Principle Scientific Officer, Environment and Heritage Service (NI)*

Ross Millar is a Town Planner specialising in rural issues. Ten years ago, when the 'next steps Agency' Environment and Heritage Service was established to deal with nature conservation, built heritage and environmental protection issues in Northern Ireland, Ross was brought in to establish management initiatives for the Province's key landscape areas and to lead on countryside recreation matters. He now heads a small team whose remit also includes advising on access policy and facilitating district councils in their role in establishing and managing access routes. Ross was the co-author of the Countryside Recreation Strategy for Northern Ireland, a report which led to the recent establishment of the N.I. Countryside Access and Activities Network.

Marion Shoard*Freelance writer and lecturer*

Marion Shoard has studied conflicts over the use of Britain's countryside for twenty five years. After starting her working life as an agricultural research scientist, she became the Council for the Protection of Rural England's first planning specialist. She left the council to research and write her first book, *The Theft of the Countryside* (1980), which examined the impact of modern farming on the countryside and set out how the farmed countryside could be reshaped to reflect the changing requirements of the whole community.

In 1987 she wrote *This Land is Our Land*, which examined rural land ownership in Britain and proposed a shift in the balance of power away from the land-owning elite towards the

ANNEX 4. SPEAKER AND WORKSHOP LEADER BIOGRAPHIES

rest of the population; this book was extended and reissued as a Gaja Classic in 1997. A *Right to Roam* (1999) deals with public access to the countryside and includes ninety pages of detailed recommendations on how a right of access should work in the UK. Marion Shoard has written numerous articles and lectures in rural policy at University College, London.

Ben Thomas

Access Advisor, Country Landowners' Association

The Country Landowners' Association (CLA) has approximately 50,000 members owning around 60% of the countryside. Founded in 1907 to promote and protect the interests of owners of agricultural and rural land in England and Wales, it is the only organisation completely dedicated to the cause of private landownership.

Whilst accepting that there is increasing pressure for greater access in the countryside, the CLA firmly believe that voluntary agreements between landowners, local authorities, statutory agencies and others still offer the best way of providing access to where it is needed. The CLA is now concentrating on encouraging changes to be made to the Bill which will allow the legislation to operate whilst safeguarding the interests of landowners subject to the right.

Richard Williamson

Strategy and Communications, Buccleugh Estates Ltd.

Richard Williamson works managing strategy and communications for the Buccleugh Estates Ltd in Scotland. The Duke of Buccleuch's Scottish Estates cover about 400 square miles of countryside and have since the 19th Century promoted a policy of Open Access. Education, access and community are core themes running through our business planning processes. The Estate provides a ranger service and extensive visitor

Richard is a West Areas Board Member for Scottish Natural Heritage (SNH) and Chair the Dumfries and Galloway Local Access Forum as well as being a Director and Vice Chair of the Southern Uplands Partnership and a Director of Solway Heritage.

Managing access at a day to day operational level and an involvement at regional and

ANNEX 4. SPEAKER AND WORKSHOP LEADER BIOGRAPHIES

national level in the politics of "new access" gave Richard an interesting perspective on the development of access issues.

Prior to moving to Scotland in 1986 Richard was a Peak District National Park Ranger working on a jointly funded project with North West Water and prior to that worked on access for Bradford and Leeds Councils.

Richard is no stranger to urban fringe access issues, a Buccleuch property, Dalkeith Country Park on the Edinburgh fringe has many issues in common with the country parks of the Manchester river valleys or South Yorkshire

ANNEX 5. 'MANAGING THE CHALLENGE OF ACCESS' DELEGATE LIST				
Title	Surname	Name	Position	Organisation
Mr	Ablitt	John	Head of Recreation and Information	Snowdonia National Park Authority
Mr	Archer	James	Warden and Access Manager	National Trust
Miss	Barratt	Emma	Network Manager	Countryside Recreation Network
Mr	Barrow	Graham	Consultant	Graham Barrow Research and Consultancy
Miss	Barton	Amanda	Chilterns Landscape and Nature Conservation Project Officer	National Trust
Mr	Bathe	Graham	Access to Countryside Project Officer	English Nature
Mr	Battye	Andrew	Assistant Area Management Officer	Peak District National Park Authority
Mr	Baugh	Ian	Recreation and Access Officer	Kent County Council
Mr	Bell	Gavin		Peak District National Park Authority
Dr	Bishop	Kevin	Senior Lecturer	Cardiff University
Mr	Blomfield	Hugo	Access and Recreation Co-ordinator	National Trust
Mrs	Brassley	Pat	Conservation Manager	Derbyshire Wildlife Trust
Miss	Brown	Audrey	Land Use Officer	National Forest Company
Mr	Brown	James	National Trust	Northumbria Regional Office
Mr	Burgon	Jo	Advisor on Coast and Countryside	National Trust
Mr	Carter	Bill	Senior Access Officer	Leicester County Council
Mr	Cartwright	Bob	Head of Park Management	Lake District National Park Authority
	Chalmers	Fiona	Projects Manager	Yorkshire Dales Millennium Trust
Mrs	Copeland	Lisa	Countryside Officer	Belfast City Council
Mr	Culpin	Simon		Sussex Downs Conservation Board
Dr	Davison	Richard	Recreation Group Officer	Scottish Natural Heritage
Miss	Doe	Helen	Conservation Officer	British Association for Shooting and Conservation
Ms	Duff	Lesley	Countryside Recreation	Antrim Borough Council

ANNEX 5. 'MANAGING THE CHALLENGE OF ACCESS' DELEGATE LIST				
Title	Surname	Name	Position	Organisation
			Officer	
Mr	Evans	Rhodri	Warden and Access Manager	Snowdonia National Park Authority
Ms	Ewins	Anne	Senior Policy Officer	Countryside Agency
Ms	Ferguson	Cath	Conservation Ecologist	British Waterways
Mr	Fearns	Claude	Member	Peak District National Park Authority
Dr	Ferris	Caro-lyne	Northern Ireland Countryside Access and Activities Officer	Northern Ireland Countryside Access and Activities Network
Mr	Flanagan	Charles	Area Manager Lake District South	The National Trust
Mr	Garner	Rob	Team Leader	Central Scotland Countryside Trust
Mr	Gerrard	Campbell	Countryside Sports Planner	sportscotland
Mr	Gilby			Dumfries and Galloway Council
Mr	Graham	Andrew	Recreation Officer	Environment Agency
Miss	Gunningham	Kim	Policy Officer	DETR
Mr	Gunton	Richard	Senior Countryside Officer	Broads Authority
Mr	Hickey	Roy	Consultant on Access and Rights of Way	
Miss	Hilder	Sue	Access and Recreation Officer	Yorkshire Dales National Park
Mr	Hiscock	David	North Downs Way Project Manager	Kent County Council
Ms	Hughes	Jo		
Mr	Keiley	Declan	Countryside Officer	Broads Authority
Mrs	Lewis	Judith	Access Officer	Scottish Natural Heritage
Mrs	Mabberley	Sue	Head Warden	Brecon Beacons National Park Authority
Mr	Mayhew	Robert	Recreation Access Officer	Northumberland National Park
Mr	McCraw	Ron	Access Project Leader	Scottish Natural Heritage
Mr	McDowell	Paul	Countryside Services Manager	Mourne Heritage Trust
Mrs	MacKay	Cath	Member	Peak District National Park

ANNEX 5. 'MANAGING THE CHALLENGE OF ACCESS' DELEGATE LIST				
Title	Surname	Name	Position	Organisation
				Authority
Mr	Milburn	Clifton	Public Rights of Way Officer	N. E. Lincolnshire Council
Mr	Millar	Ross	Principle Scientific Officer	Environment and Heritage Service
Mr	Mutch	Paul	Senior Countryside Officer	Countryside Agency
Dr	Newman	Ian	Chief Executive	Fieldfare Trust
Mr	Ninnes	Richard	Senior Recreation and Access Officer	Countryside Council for Wales
Mr	Overbeke	Mike	PROW Manager	Kent County Council
Mr	Partridge	Tom	Countryside Access Officer	Pendle Borough Council
Miss	Perkins	Susanna	Access and Conservation Officer	British Mountaineering Council
Mr	Pollitt	Richard	Conservation Officer -- Dark Peak	English Nature (Peak District and Derby)
Mr	Pollok	Dougie	Group Manager	Scottish Natural Heritage
Mr	Prendergast	Sean	Chief Ranger	Peak District National Park
Mr	Probert	Chris	Principal Land Agent	Forestry Commission
Mr	Richards	Phil	Area Ranger- Lower Wharfedale	Yorkshire Dales National Park
Mr	Roberts	Mat	Chief Ranger, City and County of Swansea	and Wales Chairman, Countryside Management Association
Mr	Roberts	Gareth	Head of Recreation , Access and European Affairs	Countryside Council for Wales
Mr	Robson	Russell	Regional Recreation Officer	Environment Agency
Miss	Rollins	Jane	Environmental Planner	British Waterways
Mr	Rutherford	Peter	Project Manager Upland Footpath Project	Snowdonia National Park Authority
Mr	Scoffin	Steve	Lecturer - Conservation Management	Environmental Management Unit
Mr	Shipston	Ben	Area Manager for Shropshire and West Midlands	National Trust
Miss	Shoard	Marion	Freelance writer/ lecturer	
	Silvester	Marion	Access Advisor	Scottish Landowners

ANNEX 5. 'MANAGING THE CHALLENGE OF ACCESS' DELEGATE LIST				
Title	Surname	Name	Position	Organisation
				Federation
Ms	Thomas	Margaret		Upland Access Management Consultant
Mr	Thomas	Ben	Access Advisor	County Landowners' Association
Mr	Tinkler	Richard	Terrier Officer	Environment Agency
Ms	Tippings	Alyson	Rights of Way Officer	Blaenau Gwent County Borough Council
Mrs	Todd	Sue	Rights of Way Manager	Surrey County Council
Mr	Trotter	Steve	Property Manager	National Trust
Mr	Turnbull	David	Access and Conservation Officer	British Mountaineering Council
Mr	Turner	Tony	Chairman	Dumfries and Galloway Council
Mrs	Tustin	Diane	Conference Assistant	Countryside Recreation Network
Mr	Wareham	Patrick	Countryside Officer	Countryside Agency
Mr	Whitehorne	David	Conservation Officer	Malvern Hill Conservators
Mr	Williamson	Richard	Communications and Strategy	Buccleugh Estates Ltd
Ms	Wright	Nikki	Training and Development Officer	Peak District National Park Authority
Mr	Young	Jon	Recreation Officer	Brecon Beacons National Park