

SUMMARY OF EXISTING ACCESS IN ENGLAND

'Access' refers to the legal means by which people can get outdoors and into nature. The main enablers of this access are as follows, with their origins in various laws passed since 1949:

Public rights of way (PRoW): Anyone has the right to use PRoW on foot (and other modes for disabled people). Some PRoW can be used by cyclists and horse-riders¹. Local highway authorities (county councils or unitary authorities) have legal duties to record/map and maintain PRoW. Owners of land with PRoW are required to keep them visible and unobstructed.

Public Rights of Navigation (PRN): A public right of navigation is the right of the public to travel by water. A PRN can exist in various forms.

- **Tidal waters:** The public has a right of navigation over tidal waters. These rights extend around the coast; however they can be subject to local restrictions where harbour or port authorities have jurisdiction.
- **Non-tidal waters:** The public has a right of navigation on non-tidal waters either where a right exists in statute, or where common law rights have been acquired over time.

Access land: Mapped areas of mountain, moor, heath, down, registered common land and coastal margin (beaches, foreshore and cliffs). On access land people have a right to enjoy quiet recreation on foot without having to stay on a path. Access provided is subject to safeguards for wildlife, privacy, and restrictions to allow landowners to continue to manage land as they see fit.

National Trails: Long-distance paths, using PRoW and access land, providing access to the nation's finest landscapes. Trails are required to meet quality standards, are created using powers set out in legislation and are partly funded by central government through grants to Natural England.

Town and village greens: Land where local people have enjoyed informal recreation for 20 years, without challenge or permission. Once registered, residents have rights of recreation there, and the land is legally protected from development or encroachment. Landowners may dedicate land as a town or village green without needing to prove 20 years' use, which gives local people rights there and protects it from development.

Permissive paths: A path without legal basis but which the landowner permits the public to use, with the intention that it should not become a PRoW with accompanying legal protections.

¹ Four types of PRoW: Footpaths for walkers. Bridleways for walkers, cyclists and horse-riders. Restricted byways for walkers, cyclists, horse-riders and non-mechanical vehicles. Byways Open to All Traffic open to all, though not maintained to the same standards as ordinary surfaced roads.

PUBLIC ACCESS AS A DEVOLVED MATTER

The means of access outlined above apply in Wales, but the Welsh Government has powers to diverge. In 2016 it explored reforms, but these have yet to be enacted. The Land Reform (Scotland) Act 2003 provides a right of access to most land and inland water, provided people abide by the Scottish Outdoor Access Code. The Act also requires local authorities to prepare plans for 'core' paths. Access opportunities in Northern Ireland are more limited, restricted to publicly owned forests, a small number of PRoW, exercise of powers by local authorities, and landowners' tolerance.

ACCESS PROVISION AND EXTENT

PRoW: 120,000 miles (of which only 20,132 miles are available to cyclists and horse riders), with up to an additional 41,000 miles unrecorded, which need to be researched by the public and added to the official record. PRoW are the primary means by which the public access the outdoors and have the strongest legal protections of all types of access. Every PRoW can be used on foot, while only bridleways, restricted byways and byways open to all traffic can be used by cyclists and horse-riders.

Open access land: The Countryside and Rights of Way Act (CRoW) established a 'freedom to roam' over almost 1m hectares in England, where the public are free to walk, explore and climb, but cannot cycle, canoe, horse-ride or camp. CRoW was groundbreaking legislation but not every part of England benefitted equally. Most access land is in the North. The Midlands and the South did less well, because of a lack of qualifying land types, a greater prevalence of intensive farming, and difficulties in mapping 'downland'. Land to which there was legal access before CROW was implemented retains those rights, meaning that some access land ('urban' commons for instance) also has rights for horse riders.

Marine and Coastal Access Act land: This Act introduced a right of open access for walkers only to beaches, foreshore and cliffs in England, along with a continuous coastal route - a new National Trail known as the King Charles III England Coast Path (KCIECP). These open access rights are like CRoW access rights but have some important differences based on the nature of the coast and lessons learned when implementing CRoW rights.

National Trails: Currently 12 solely in England. One, Offa's Dyke Path, is shared with Wales. Two additional Trails are underway, the Coast-to-Coast Trail and KCIECP. Only two of these are available to horse riders and cyclists.

Town & village greens: There are almost 3,650 registered greens in England, covering 3,300 ha.

Water access: England has 57,602km of rivers and is dotted with more than 390 large lakes. Of the total 57,602km of rivers in England, only 2001 km have a clear statutory public right of navigation (3.47%)². Combined with canals in England, public access to our total inland waterway resource is around 7%. DEFRA uses the term 'unregulated' to describe inland waters where there is no clear Public Right of Navigation.

2 *Water based Sport & Recreation the facts (2001), University of Brighton*

BARRIERS TO ACCESS

While this inquiry did not specifically address the barriers to accessing green and blue spaces, many of the respondents to the call for evidence cited common issues.

The legal means by which the public can access and connect with nature are extensive but the national figures mask significant local variations in both provision and the ability of communities to make use of the opportunities that exist. The barriers responsible for this include:

Proximity: 70% of adults state that they can walk to their nearest local green space within 15 minutes³.

Accessibility: 20% of people cannot use PRow because of mobility issues, a result of unnecessary barriers on the network such as gates and stiles⁴. These are also an impediment across the life course, for older people, people recovering from ill-health and parents with children. On water, physical barriers such as weirs or hydro schemes can create hazards for recreational users. Accessible access points to the water are often sporadic.

Quality: Blocked and poorly maintained PRow mean that even where legal rights of access exist, people are unable physically to use them. Though local highway authorities are required to keep PRow clear and open, and enforce landowner duties, they are increasingly unable to do so, with research⁵ in January 2024 highlighting the network being blocked in over 32,000 places. Rivers are facing acute problems around water quality, chemical and plastic pollution, and invasive non-native species. Some of these issues increase the risk of illness for recreational users.

Information: A lack of easily available public information, concerns around getting lost, and a lack of signage are real barriers for many. Polling by YouGov for the Ramblers in 2023 found that 1 in 4 people do not know where they can walk, rising to over 1 in 3 for disabled people. A culture of risk and liability has meant signage information on watersides almost entirely focuses on the dangers and where you can't access the water and not where you can and how to do so safely. Initiatives like the Paddlers' Code and Paddle UK safety campaign are good examples of positively influencing public behaviour.

³ Natural England, People and Nature Survey, Adults' Year 4 Annual Report (April 2023 - March 2024)

⁴ Natural England (2018) *Opening access to the countryside*.

⁵ <https://www.bbc.co.uk/news/science-environment-67937253>