ACCESS REFORM FOR ENGLAND:

PROPOSALS FROM THE RIGHT TO ROAM CAMPAIGN

TABLE OF CONTENTS

SUMMARY

➢ Access to nature in England is limited in extent, uneven in distribution, caters only for a narrow range of activities and is widely subject to arbitrary exclusion.

➢ New legislation is required to:

1) expand the public's right of responsible access
2) make the access framework more legitimate, more equitable, better connected and easier to communicate
3) protect customary freedoms at risk due to a lack of statutory rights
4) improve ecological protections and address existing access issues

➢ To resolve these issues, Right to Roam proposes:

- ❖ the creation of a new 'default' right of responsible access, subject to justified exemptions and responsible use.

- ❖ the production of a comprehensive and well publicised Outdoor Access Code to replace the more limited Countryside Code, establishing a new contract for responsible access in England.

- ❖ measures to regulate the dog industry, educate dog owners on livestock implications and wildlife disturbance, support expansion of designated dog exercise fields and ban damaging spot-on flea treatments.

- ❖ the drawing up of local authority access master-plans; utilising the new rights to create a logical, accessible, and integrated network providing active transport routes and nearby access opportunities across the country.

- ❖ support for a raft of wider outdoor and environmental initiatives, such as a National Nature Service and the proposed GCSE in Natural History, to deepen generational belonging and instil lifelong commitment to the natural world.

INTRODUCTION

The Covid-19 pandemic was a flare fired over the landscape of England, exposing something long known and long neglected: that access to nature across our country is profoundly unequal – and getting worse.

Over 49,000 miles of historic paths remain unrecorded, and risk being lost forever. 32,000 rights of way have been blocked or obstructed. 2,500 'access islands', created by the Countryside and Rights of Way Act 2000, remain unresolved. Venerable freedoms, such as the right to wild camp on Dartmoor, have come under threat from wealthy landowners. Hundreds of years of permissive access to major green spaces, such as Cirencester Park, have suddenly been withdrawn.

But it's not just the headline losses that matter. Every week the Right to Roam campaign hears from communities across England who have lost their customary access to the places they love - a local wood, a flower-rich meadow, a treasured swim spot - as new owners or management shut off that which had been taken for granted, exacerbating the limitations on access we already endure. Currently, just 8% of the English countryside has a right to roam, while only 3% of its rivers enjoy defined statutory rights of navigation (and with it the uncontested right to access, swim, or paddle). Even in our vaunted national landscapes, rights of access can be poor – with 22 out of 34 in England permitting less than 10% of land to be designated for public access.

The effects are unsurprising. Currently, the UK ranks bottom of the league for nature connectedness across Europe. Our children spend less time outdoors than prisoners, their roaming range contracting with each generation. Meanwhile, an epidemic of physical and mental health challenges is being exacerbated by the inability of people to access their nearby nature. This is despite the consistent, well-documented evidence that experiencing nature is fundamental for our health and wellbeing.

The greatest physical and mental health resource yet created is everywhere about us, yet England's antiquated structures of ownership and access mean that, in many cases, little of it is available to the public to enjoy. Fifty percent of England remains in the hands of less than 1% of the population, who (with some positive exceptions) act to guard that exclusivity fiercely. We are living with the impacts of a pre-democratic system of exclusion; a legacy of centuries of game laws, enclosure acts, stoppage notices and the hostile architecture it left behind. Spiked fences, barbed wire, aggressive signage, cameras, walls, keepers and gates can mar our experience of the countryside and inhibit the more positive, inclusive culture it might yet create.

It is time such arbitrary power was rebalanced. England needs a new model of access appropriate to a modern democracy. That does not mean a free-for-all. Nor does it mean ignoring the legitimate concerns of farmers and landowners where practical problems and access rights coincide (in fact, we believe reform is an opportunity to address these too). It

means decisions about exclusion and management are made on the basis of collective values, not just those with the privilege of owning the land. This 'social licence' is a belief shared by the public and progressive landowners alike, and should underpin our access system now. An overwhelming 69% of the public agree, with support indistinguishable across both rural and urban communities and widespread across age groups and political creeds.

Meanwhile, the ecological promise of connecting communities more deeply with their environment is already materialising. Across Britain, networks of grassroots nature defenders are emerging in exactly those places where access rights are most enduring. It is no coincidence that the River Wye, one of the 3% of rivers with longstanding rights of access, is at the heart of our fight to arrest the declining health of our rivers. Access reform can unlock that potential across the country, making the ability to know and care for nature immanent to every community. Connection is the precondition of protection – we cannot redress our ecological crisis without it.

In this document we lay out the simple, practical measures we believe are required to make it happen. They have been crafted with input from access specialists, conservationists, access friendly farmers and landowners, and are designed to provide the greatest amount of access possible without interfering with the livelihoods of rural workers or presenting an additional burden for our wildlife.

They will cost relatively little to implement, yet prove hugely rewarding for a public which has long been expected to bear the cost of myriad land practices without seeing maximal benefits in return. With the shadow of the pandemic still looming in our consciousness, a renaissance of public passion for nature - and a new government in power - the time for comprehensive access reform has come. As part of its commitment to reimagine the landmark National Parks and Access to the Countryside Act, announced in celebration of its 75th anniversary, Labour has a historic opportunity to finish the job it triumphantly began in 1949, leaving a powerful and positive legacy for generations to come.

The Right to Roam Team
November 2024

COMPONENTS OF ACCESS REFORM

Access reform comprises three interrelated elements. Effective reform should aim to address each of these elements and ensure they reinforce one another:

1) **A foundation of statutory rights**. This establishes where people have a legally protected right to be, the activities they can undertake when they are there, and defines the conditions placed upon their being there. It provides a statutory backstop which prevents the loss or attrition of customary access freedoms and establishes the options available to local authorities (or other bodies) when planning new access infrastructure and devising sustainable transport routes.

   In England and Wales this foundation is currently covered by the Countryside and Rights of Way Act 2000. In Scotland it is provided through part 1 of the Land Reform (Scotland) Act 2003. Statutory rights of access in England are currently far less comprehensive than those enjoyed in Scotland.

2) **Provision of access infrastructure**. This ensures the use of access rights are practicable for the majority of people and helps navigate the competing interests which may surround their use.

   Good access infrastructure is key for effective access management and helps mitigate issues associated with access. It includes both designated paths (footpaths, bridleways, permissive paths) and material features such as stiles, gates, signs, waymarkers, footbridges, launch / exit ramps for watercraft. Accessible infrastructure and surfacing is essential for ensuring access is possible for the widest range of users.

3) **Supporting a culture of responsible access**. This ensures the exercise of access rights are well understood, associated issues are mitigated, and that the full potential of access benefits are realised.

   Cultural shift can be supported by the creation of a straightforward, legitimate access model with wide public buy-in, and through ancillary measures such as a thorough and easily available outdoor access code; promotional initiatives such as adverts, leaflets and signage to communicate the code; regulation of the dog industry and education for dog owners; sanctions for irresponsible behaviour and resources to enforce them; provision for outdoor learning and nature connection; and support for local environmental action.

   In the following pages we provide an overview of the current issues associated with each of these components, provide suggestions for how policy makers might seek to redress them, and conclude with some thoughts about how the potential of access reform can be maximised.

THE PROBLEM

Access in England is limited in extent, uneven in distribution, caters to a narrow range of activities, and is widely subject to arbitrary exclusion.

1. Overview of Access Provision in England

Access Land – deriving from the Countryside and Rights of Way Act 2000 (CRoW). This provides non-linear access rights to areas of open countryside, covering (in theory) 'mountain, moor, heath and down' as well as areas of common land. Access rights are limited to certain activities (mainly walking and rock climbing) and operate seasonal and contextual restrictions on dogs (short lead between 1st March and 31st July, all times near livestock, and 'under effective control in coastal margins). Landowners and land managers are able to apply to fully exclude dogs from small lambing fields and grouse moors.

Access land covers approximately 8% of land in England.

Rights of Way Network – a system of footpaths, bridleways and byways with statutory protection and linear rights of passage. These are maintained by local authorities. Each is subject to different restrictions (for instance, prohibiting cyclists on footpaths, motorised vehicles on bridleways etc). New rights of way can be registered following twenty years of unbroken and uncontested use by the public. Historic rights of way which are absent from the definitive map can also be registered, and the government has recently committed to removing the previous deadline for registering these by 2031.

The Rights of Way network covers approximately 0.3% of land in England.

Permissive Access – a voluntary agreement from a landowner to facilitate public access. This access is conditional and can be revoked at any time at the landowner's discretion. At various points, permissive access schemes have been supported with public money through Higher Level Stewardship schemes, though this has now ended (the government is currently looking at permissive access incentives for some woodlands). Additional tax incentives for permissive access, usually on large historic estates, are facilitated through HMRC's 'Tax Exempt Heritage Assets' scheme.

The exact percentage of permissive land is unknown but relatively small.

Waterways – a contested area of access with many grey areas. Only 3% of rivers enjoy statutory rights of navigation (ensuring the rights of e.g. paddleboarders, kayakers, swimmers to their use). Though customary use of many other rivers is long-standing, this can be disputed by some riparian landowners. Including canals in the calculation brings the total to 6.4% of waterways. Riparian landowners own the bank and riverbed up to a theoretical midline, but use of the water itself remains open to legal interpretation. Other inland waters, such as reservoirs,

are off-limits to the public despite their popularity among wild swimmers, leading to contestation between authorities and users.

Around 3% of rivers in England and Wales have a statutory right of navigation, with 6.4% of waterways (including canals) enjoying explicit public access.

Informal Access – Many areas of countryside - from local woodlands to meadows, village swim spots, scrublands, and even most beaches - exist in a legal grey area, with no formal access arrangement and no active or enforced exclusion. They are nevertheless often areas of vital importance to local communities which have enjoyed long-standing freedom of their use. Historically, access to these areas relies on customary precedent and 'implied consent' to continue.

2. Associated Access Issues

Access Land

- Due to the way access land was designated under CRoW (applying to mountain, moor, heath, down and common), it predominantly caters to areas which are remote from where most people live. This limits its day-to-day value for the majority of users - especially those without means of private transportation - and subjects them to a 'landscape lottery' whereby their access to nature is determined by technical botanical designations and land type. Research by Right to Roam has found 103 constituencies have no access land whatsoever, with 157 possessing less than 1% (96 of these are rural constituencies). We have termed these areas 'access deserts'.

- Assigning access by landscape designation led inevitably to the phenomena of 'access islands' – theoretical areas of open access with no lawful means of accessing them. This is particularly problematic on downland, since 'improved' (i.e. ploughed and re-seeded) downland was exempted from CRoW. Research by Right to Roam has revealed there are over 2,500 access islands in England alone. Many sites of public interest are also not covered by existing access arrangements. For instance, 5627 ancient scheduled monuments have no legal right of access (28% of those in Historic England's dataset).

- Access land exclusively caters for walkers and climbers. Most other activities have no statutory protection (or are actively prohibited through byelaws). For instance, on access land there is no right to wild camp, swim, ride a bike or horse, or play organised games. As with the Right of Way network, this presents a prescriptive and culturally limited model for how nature ought to be accessed and enjoyed. Even where local laws *have* catered for such activities, such as provision for wild camping on Dartmoor, the lack of explicit statutory protection has left

them vulnerable to legal challenge from wealthy landowners and led to costly legal battles for cash-strapped National Park authorities.

Rights of Way Network

- As much as 49,000 miles of the historic network is unregistered. These 'lost paths' are currently absent from the definitive map. Registration is a convoluted process, with a high threshold of evidence, usually requiring around twenty individual submissions. The current 'twenty year rule' (whereby twenty years of open, unobstructed, and unbroken use) for eligible new Rights of Way is also vulnerable to unexpected breaks caused by unforeseen events like Foot and Mouth disease, or the Coronavirus pandemic. It also provides an incentive to landowners to obstruct previously tolerated use.

- To be serviceable, Rights of Way need to be maintained. Due to austerity measures imposed on local councils, maintenance of the network has faced cutbacks, with many parts of the network - especially in poorer constituencies - suffering from overgrowth, broken infrastructure (stiles, gates) and lack of enforcement when landowners have introduced illegitimate obstructions. A BBC investigation in 2024 discovered 32,000 footpaths were blocked or obstructed in England and Wales.

- The coverage provided by the network is arbitrary and uneven. In some parts of the country, it still provides intuitive and meaningful access to the surrounding landscape. In others, it is highly partial or non-existent. Its historical origins mean it is not always well suited to contemporary needs (since it emerged from a rural context which, for the most part, no longer exists). This history is part of the network's charm and an important part of the countryside's cultural heritage. But it provides insufficient provision for the access requirements of a modern society. It means straightforward access needs like safe, off-road routes connecting people to their rural school or pub, go unaddressed.

- A Right of Way is only that – a linear right of passage. It encourages a mobile, goal-oriented manner of relating to nature and the landscape. This presents significant cultural limitations (the idea of 'going for a walk' as the primary means of engaging with the countryside or nature is not a universally shared notion) and means that much of what is known to people about their environment can remain limited and repetitive. A linear route frustrates intuition, desire, spontaneity, and sometimes common sense. It tells you where you must go, rather than facilitating where you wish to go – or where might be meaningful for you to go. In turn, this has deeper ramifications for people's feelings of belonging and their ability to form meaningful relationships with place and nature.

Permissive Access

- Permissive access rights are conditional and can be revoked on a whim by the landowner (as many have since the cessation of funding via Countryside Stewardship schemes). Their provisional nature also means they are not always marked on authoritative and readily-available maps (e.g. Ordnance Survey), rendering them unknown to the majority of users. Consequently, permissive access provides a poor basis for addressing access needs long-term and, when tied to tax breaks and public payments, represent a further means by which landowners extract public revenue simply by dint of owning large areas of land. This system lacks social legitimacy and is partly what the shift to the 'public goods' model of agri-environmental payments has sought to redress.

- There is usually little stipulation on the kinds of access which need to be provided by permissive routes in order to qualify for tax relief or other forms of public support. On many estates this has simply led to permissive paths allowing the public to wander part way up a tarmacked drive, or along a distant field fringe, while access to meaningful green spaces or connections with the wider landscape is prohibited or frustrated. There is also little discretion over what activities they permit, further limiting their value for e.g. sustainable transport initiatives or other modes of access.

- They are also poor value for money. The former permissive access scheme, delivered through Higher Level Stewardship payments, cost around £20 million (nearly twice the cost of fully implementing part 1 of the Land Reform Act) and left almost no legacy. Any initial capital investments in permissive infrastructure is wasted when such schemes conclude.

Waterways

- Many members of the public report hostility when swimming, paddleboarding or kayaking in their local river. Many communities have no relationship with their nearby rivers due to limited bankside access rights. The lack of clear, statutory rights over access to water have led to legal ambiguity, which has in turn increased the potential for such conflicts. In turn, many riparian landowners have exploited the ambiguity to declare large sections of river off-limits to the public without legal justification.

- Areas of blue space well suited to public access, such as many reservoirs and lakes, are currently off limits - despite their popularity with swimmers. This has led to further conflicts between members of the public and private

security operating on behalf of water companies (who cite public safety concerns – often with little basis, or due to anxiety about liability law). By contrast, in Scotland and large parts of Europe, reservoir access is both lawful and popular.

- The proliferation of disingenuous signage on waterways has actually exacerbated issues of public safety. Use of ‘No Swimming’ and other warning notices designed to deter swimmers for exclusionist reasons, or out of a misconceived concerns about liability, has made it difficult to discriminate between genuine safety warnings and spurious signage motivated by other factors. This leads to ‘sign blindness’ as swimmers and other water users learn to ignore all such notices; unable to discriminate between legitimate and arbitrary warnings.

Informal Access

- Areas of Informal access are vulnerable to sudden incontestable changes of use or enforcement. Without statutory protections guaranteeing continued access, places of significance and meaning can be removed from a community overnight due to change of ownership or other agenda. We receive weekly reports from around the country of such ‘micro-enclosures’ - local woodlands, meadows, beaches, treasured swimming spots - the rate of which appears to have accelerated since the pandemic. We are currently mapping their extent.

- Protecting access rights to such places is a further argument in favour of a ‘default’ approach to access reform, since it is exactly these kinds of locations which are most likely to fall outside of easily defined land designations. Legislation is therefore needed to convert access freedoms grounded in customary precedent and implied consent into statutory guarantees.

THE SOLUTION

A right of responsible access to land and water, subject to responsible conduct and justified exemptions.

To address these issues, Right to Roam, the British Mountaineering Council, Paddle UK and other access bodies, are proposing fresh legislation inspired by the success of the Land Reform Act in Scotland (introduced in 2003) and the celebrated principle of 'allemansrätten' (Every Person's Right) developed in Scandinavia.

In these countries, along with others across Europe, there is a **default right of responsible access to most land and water**, with any exceptions requiring reasonable justification.

Such exceptions generally cover domestic privacy (e.g. gardens), protection of livelihood (e.g. land on which crops are growing), and additional protection for sensitive conservation needs. The rights are qualified and contingent on adherence to a code of conduct. In Scotland for example, those responsibilities are outlined in a comprehensive Outdoor Access Code which sets out the 'contract' between access users and landowners. This contract is reinforced via public promotional media, signage and educational initiatives, and overseen by a forum incorporating relevant stakeholders – from landowners to access and governmental bodies.

This approach to access is simple in principle, making it easy to comprehend and communicate, while providing more detailed guidance on specific activities as required. Crucially, it starts from a place of equity: everyone has the right to be on land providing they respect it and unless exclusion can be legitimately justified. It places access rights within a statutory framework which benefits access users (because they can be confident of their legal standing and access their environment without fear of trespass), and landowners (because it provides clarity, emphasises responsibility, and gives a structure for the resolution of issues should they arise). In addition, it incentivises collaboration between land managers, the access sector, and access communities; rather than setting their respective interests in conflict.

Benefits over CRoW

In our view, this access model, which uses access-by-default rather than by land designation - **enjoys a number of significant advantages over the model adopted by the CRoW Act**, namely:

- **Simplicity:** A default of access is simple to understand, to communicate and to enact. The original CRoW Act took five years to implement and ran over budget (estimated costs were £28m but ran to £69m in practice). This was predominantly due to the complicated mapping requirements posed by determining access on the basis of land

type, and the landowner appeals such an approach gave rise to. By contrast, the Land Reform Act took two years to implement and cost far less to enact (£11m in its first five years of operation, including publicity and staffing), required no mapping exercises and provoked only a handful of subsequent appeals. Overall, England's piecemeal right to roam cost six times more to implement than the Scottish system, and much of the expenditure was directed towards mapping costs rather than funding ground staff to oversee its implementation.

- **Universality**: The Land Reform Act succeeded in creating more areas of access for proportionally more people, and extended rights to a much wider range of activities (on condition they respect other access users, the environment and livelihoods). It also removed the legal ambiguity surrounding access to areas of land and water which fall between specific designations. By contrast, CRoW's focus on remote upland areas meant its benefits were unevenly distributed. As Conservative MP Edward Leigh (then Chair of the Public Accounts Committee hearings on CRoW) noted, "as far as many constituencies in England are concerned, this [CRoW] has made no difference at all. I agree it is very useful if you are in the Pennines or moorland areas like that but most people do not live in these areas."

- **Legitimacy:** The nature of our current access model makes it hard for access users to determine where exclusion is justified and where it is arbitrary. By requiring justifications for exclusion, default rights of access create a more democratic system which enjoys far greater public legitimacy. Legitimacy is key for compliance: the public are more likely to respect exclusion when it has a rational basis and is rooted in consensual values. The proliferation of misleading and hostile signage used to deter access users has also contributed to so-called "sign blindness", lessening the effectiveness of genuine, justified signage.

- **Precedent:** the default approach has worked successfully in Scotland for twenty years, where it enjoys widespread support and is a source of cultural pride. Lord McConnell, who served as First Minister of Scotland during the passage of the Land Reform Act, has described it as "the real triumph of the first four years of the Scottish parliament" and noted that the scare stories told in advance of its introduction by opponents "proved to be utterly groundless".[1] That experience is replicated in other areas of Europe, such as Scandinavia, Switzerland, Austria, Czechia and Estonia. Consequently, these countries enjoy far higher indices of nature connectedness and are widely considered to be some of the most responsible outdoor cultures in the Western world. It also means their access conversation is more solution-oriented and less concerned with contesting rights.

[1] Call with Lord McConnell, January 11th 2024

Adaptations for England

We can use the experiences of these countries to improve and adapt our own access legislation by creating standards for signage, inviting local authorities to draw up access master-plans, simplifying the creation of new rights of way, and clarifying the liability concerns of landowners.

Universal Standards for Access Signage

The complexity of the current access model can make it hard to understand and difficult to communicate, creating an additional barrier to less experienced access users. It reduces the likelihood of access rights being exercised and exacerbates issues with compliance.

In our view, a comprehensive approach, such as that introduced by the Land Reform Act, is clearer to communicate than a designation system such as CRoW (whereby access land is conveyed through orange shading on the ordnance survey map). This could be additionally supported through adoption of a consistent standard for signage, such as a simple ‘traffic light’ design to indicate areas of open access and areas of justified exclusion (as opposed to the current wide variance of signage). Misleading signage and unjustified obstruction to exercising access rights should be prohibited as part of the new access legislation.

Access Master-Plans

Local authorities could be tasked with the creation of an access master-plan, drawn up with input from local access fora and via wider public consultation. This would utilise the new rights to ensure connectivity between areas of open access, settlements and existing RoW, and integrate it with other agenda – such as provision for sustainable transport routes (e.g. the development of new off-road cycle routes). This would also assist with access management and give land managers an opportunity to make reasonable adjustments to infrastructure proposals. Additional resources for access infrastructure could be included within Environmental Land Management payments and distributed in line with the agreed master-plan.

Criteria for the master-plan and associated access infrastructure might include:

- Relevance for wider connectivity (e.g. connecting arable areas with managed access to adjacent areas of open access e.g. woodland & riverside; connection to existing RoW network; connection to nearby settlements)
- Relationship to areas of public interest (e.g. archaeological features, heritage sites, climbing crags, viewpoints) and responsiveness to customary use or expressed public desire.
- Affinity with other local authority agenda, such as safe cycling routes, provision for elderly users, or targets for accessible access.

The combination of wider access rights, a well designed access master-plan, and support for access infrastructure will help provide land managers with **predictability** and access users with **connectivity**, to the benefit of all parties.

Rights of Way

The government could also explore a more straightforward system for the creation of new rights of way, whereby public applications are made and assessed against the balance of civic and private interests (rather than simply historic use), as in other planning decisions. This could still account for historic use – but also be weighted alongside other needs. As above, these might include the creation of new off-road routes for pedestrians and cyclists, resolving access islands, creating network connectivity and more circular routes, accessible route creation, important historic or heritage features, access to rivers and synergy with the proposed local authority master-plans.

Liability

Liability is a common concern of landowners but its relation to access is not always well understood and many landowners (or their insurers) believe they are more at risk of liability claims than they actually are.

Both the CRoW Act and Scottish Outdoor Access Code make it clear that access users bear personal responsibility for any reasonable risks they might encounter on access land. This means that landowners are only obliged to take protective measures or install appropriate signage for hazards which cannot be reasonably anticipated (e.g. a covered mine shaft). In legal terms, the activities of access users falls under 'willingly-accepted risks' and conform to the principle of 'volenti non fit injuria' (to a willing person no harm is done).

The existing case law strongly affirms these principles. But they could be further clarified or strengthened in order to provide landowner reassurance. (For relevant legislation, see **Occupiers Liability Act 1957** & **Marine and Coastal Access Act 2009**)

RESPONSIBILITY

Access reform creates the political opportunity to reset the public's relationship to nature and address existing access issues.

Outdoor Access Code

In place of the existing countryside code, we propose a new Outdoor Access Code ("The Oak") which lays out the new set of public rights, makes clear the responsibilities of both access users and land managers, and simple methods of leaving a positive trace. This should serve as our foundational access document and be properly promoted and distributed. Inspiration for appropriate content can be drawn from the Scottish Outdoor Access Code, and integrated with existing legislation covering e.g. littering, wildlife disturbance, livestock worrying and other access issues.

Dogs (Context)

The current best estimates suggest there are now over eleven million dogs in the UK (though lack of regulation or registration means the exact figure cannot be known) and their impact on livestock and wildlife and ecosystem health can be problematic. This is exacerbated by the weakness of regulation governing both breeding and ownership, combined with lack of education around issues such as wildlife disturbance, toxic flea treatments and transmission of parasite diseases like neosporosis.

Though not a primary driver of ecological declines, disturbance from dogs can exacerbate the vulnerability of key species (e.g. ground nesting and shore birds – though other taxa can also be affected) preventing their recovery (especially during the breeding season). In turn, the NFU estimates that dog attacks currently cost the farming sector between £1 million and £2 million per annum.

Our view is that access to nature is a right but dog ownership is a choice. It is therefore reasonable that access for dogs be qualified where they interfere with at-risk species and livelihoods. At the same time, for many people, exercising their dog is a regular driver for getting outside, and many state mental health and outdoor exercise as a major factor in their decision to get a dog. A balance needs to be struck.

Current access legislation in England & Wales makes livestock worrying and intentional / reckless disturbance of e.g. a bird's nest or its dependents a criminal offence (Dogs Protection of Livestock Act 1953; Wildlife and Countryside Act 1981) and obliges owners to keep dogs on a short lead during nesting season while on access land and near livestock (Countryside and Rights of Way Act 2000).

Landowners can also apply for temporary restrictions on dogs for certain purposes (e.g. on a

lambing field). Dogs must be under effective control in areas of coastal margin. Existing sanctions (£1000 fine for livestock worrying). In Scotland the maximum penalty is £40,000.

The available police data indicates that the majority of livestock worrying incidents are not, in fact, access related, with 2/3rds of attacks caused by unsupervised dogs with no owner present (usually those escaped from nearby properties, sometimes without any awareness from the owner). Additionally, not all attacks by dogs with an owner present occur on access land or rights of way but during passage of livestock along public highways (where they may not be so readily anticipated).

This is not to excuse access-related issues. It is simply to say that access restrictions do not, in themselves, address the problem, even where access can be a contributing factor. Likewise, enhanced sanctions may also have limited impact in the majority of cases.

Dogs (Proposals)

While not all the recommendations here are pertinent to access, but it makes sense to consider them together, not least for ease of dissemination, but also because parcelling changes in dog policy with popular measures like access reform is likely to boost acceptance of sensible restrictions, while addressing some of the most frequently expressed concerns in the right to roam debate – those of wildlife disturbance, livestock worrying and the ecological impacts of dog excreta and pet medicines.

We have a full list of proposals to address this issue available on the Right to Roam website here. In brief, we suggest some of the following areas for consideration:

Dog owners

- **A revamped nationalised system of pet registration for dogs (and cats) and licensing of owners**, mandatory chipping for puppies and rescue animals before they are rehomed. Paid for through annual fee (with discount for low incomes)
- **Owner certification requiring completion of a user-friendly, interactive online training course**, covering welfare, husbandry and issues pertaining to dogs in the outdoors On completion a prospective owner/carer will receive a code allowing them to buy or adopt a chipped and registered dog. Once registered, owners could also be offered **standardised basic puppy training** advice and incentives to attend in person sessions.

Dog breeders and canine fertility clinics

- **Licensing for all dog breeders and importers**, applying to anyone selling puppies or rehoming rescue dogs, with free one-off licences for the purpose of rehoming ‘accidental’ litters.
- **Licensing of canine fertility clinics**

Commercial dog walkers

- Creation of a **professional body to register and represent dog walkers.**
- **Consultation on the number of dogs that should be exercised together in public by one handler.**

Places for wildlife, places for dog walking

- As part of the proposed new access legislation, provision should be made for **excluding or restricting dogs in ecologically sensitive sites and fields with vulnerable livestock at certain times of year**, e.g. lambing season, bird nesting season.
- Zoning to incorporate **free-to-use off lead exercise areas, and designated bathing areas or 'splash zones'**, especially in the urban fringe.

Vets and medicines

- **Regulation of veterinary medicines marketed for pets**, in line with those used on livestock, including requirement for full Environmental Impact Assessment. An urgent ban on over-counter sales of topical 'spot-on' products containing the most damaging insecticides.

Fouling

- **Revise Clean Neighbourhoods and Environment Act 2005** to cover agricultural land to combat the spread of neosporosis
- Public education on disease, nutrient enrichment and plastic pollution potential of different types of poop bag to be included in online training course.

Livestock worrying

(NB Some changes to the law around worrying, including increased penalties are already in motion.)

- **Tighten the law on livestock worrying,** removing the exemption for kenneled dogs and hounds used for hunting.
- **Improve official record keeping relating to incidents of livestock worrying** - lack of data makes the problem difficult to understand.

Conservation

Access related disturbance ranks relatively low in the threats posed to designated sites and many of the disturbance issues which do exist are also connected to the loss and fragmentation of suitable habitats. Ecological recovery, rather than the exclusion of people, is therefore by the best means to prevent it. Human connection is also vital to asserting the value of the natural world and defending its habitats – with greater connectedness associated with increased pro-environmental behaviours.

Nevertheless, human disturbance can affect select species under certain conditions and prevent their recovery – especially when combined with the impacts of dogs (see above) and the degradation of naturally secure and protective habitat. Certain species, such as ground nesting waders and beach nesting birds are particularly vulnerable. While some of these issues are already addressed by existing legislation, additional measures can help further minimise potential conflicts between access and wildlife.

- **Access Exclusions:** By replacing a relatively static system of designations with a more flexible, default approach; highly sensitive conservation areas could be legitimately excluded from public access as season, habitat development and species profile dictate. It could also adjust for unique conditions (e.g. prohibiting use of paddlecraft during periods of low river flow) In turn, a default of access “buys” the space and legitimacy for dedicated areas of exclusion in accordance with the vulnerability of key species, the protection of unique habitats, or other conservation aims.

- **Honeypot Reduction**: Most species can handle occasional disturbance but struggle with continuous disturbance, especially from dogs. In part, these derive from the concentration of people in ‘honeypot’ areas. While some honeypots are inevitable, greater levels of localised access will help reduce pressure. Currently, over 50% of the existing access land is classified as either a Site of Special Scientific Interest, a National Nature Reserve, or a Local Nature Reserve. While a Natural England survey conducted in 2006 found that the impacts of access were not significant (with localised issues primarily attributable to dogs), access reform may help further alleviate pressure on designated conservation areas.

Litter

The most significant litter issues affecting the countryside are unrelated to access and derive from a large increase in fly-tipping by criminal operators exploiting lax regulation and poor enforcement. Agricultural and fishing detritus, as well as blow-in from dumps, roadsides and industrial sites further exacerbates the problem. Compared to this systemic disregard, the

contribution of walkers and other access users is relatively minor. Ultimately, litter is a systemic issue which goes beyond access policy and requires wider government intervention like the (repeatedly delayed) deposit return scheme (now scheduled for 2027), as well as accountability from companies whose business model is built around disposable single-use plastic, and better controls on commercial waste and waste collection.

Access is also as much a solution to litter issues as a contributor. Many access organisations, recreational bodies, informal groups and private individuals undertake large scale litter clean-ups of afflicted areas. Organisations and initiatives such as Trash Free Trails (mountain biking, trail running and hiking), Big Paddle Clean Up (British Canoeing), Ramblers Litter Picks (Ramblers), River Roding Project (Liveaboard Boaters), Million Mile Clean (Surfers Against Sewage), Love Your River (Right to Roam), alongside thousands of citizen litter collectors around the country, all demonstrate the unfolding relationship between access and proactive environmental care.

We propose enhancing this potential by moving away from the passive message of 'leave no trace' to the active message of 'leave a positive trace': encouraging a sense of guardianship and collective responsibility in exchange for enhanced rights of access.

Wild Service

We believe access reform is key to a new culture of belonging in which everyone has a stake in their environment, a concept we call Wild Service.

To accelerate this transition, we reinforce the call of other organisations for measures including:

- **Incorporating Nature into Education**: The best way to learn about the countryside is through direct experience. Residential stays, expeditions and day trips all help to counter the 'extinction of experience' which is contributing to the loss of knowledge of the natural world. But these are no replacement for day to day, self-directed experience. Education should focus on empowerment: developing comfort and resilience in the outdoor environment, practical skills and knowledge and baseline ecological awareness. These can be complemented through the newly announced GCSE in Natural History.

- **National Nature Service:** We support calls by the Wildlife & Countryside Link for a new National Nature Service, training a new generation in ecological and practical conservation skills and helping meet the skills-gap hampering our ability to meet nature recovery targets. Drawing on its namesake, this could be supplemented with an ecological equivalent to national service: providing a voluntary mechanism for every young person to spend a year undertaking meaningful ecological restoration around the country: learning to love their national landscapes, meeting like-minded peers, and beginning a life journey as an advocate and agent of ecological transformation.

FAQ

Isn't England too densely populated? Scotland already had customary freedoms of access in the highland areas prior to the introduction of the Land Reform Act (e.g. in areas similar to CRoW land in England and Wales). The Land Reform Act's real innovation was therefore to extend statutory rights to the areas of land use most similar to England (urban fringe and lowland Scotland). Likewise, Scotland's population *spread* is equivalent to the most densely populated areas of England, with 70% of the country's population living within the Central Belt. If the Land Reform Act can work successfully in the urban fringe surrounding Edinburgh and Glasgow, there is no reason it cannot work in the green belt surrounding English cities. 'Allemansrätten' also begins right at the urban fringe. Indeed, part of the reason England is understood to be 'overcrowded' is because we all share the same small proportion of it.

Won't it receive too much opposition? Every extension of access rights in British history has been met with the same objections by the same handful of organisations. And each time the message has been the same: the public will cause carnage, wildlife will irreparably suffer, wouldn't a permissive system (funded via tax breaks and public money) work much better instead? None of these prophecies ever come to pass. Permissive schemes are repeatedly proved expensive and ineffective. In Scotland, the Land Reform Act has become a normal feature of life and has been embraced even by the bodies which initially proved most hostile.

Thankfully, times are changing. Many landowners and farmers in England see the value and opportunity of a new, well managed access system focusing on informing, including and engaging rather than excluding. Right to Roam has formed an Access Friendly Farmers & Landowners (AFFLO) network to involve these voices in the conversation and help shape our access proposals so that they genuinely work for everyone.

Shouldn't we just incrementally extend access to new land types? Other organisations have been proposing reform take a 'partialist' approach to access extension, arguing that we should incrementally extend access to new land types (e.g. woodlands, green belt, watersides, rivers). While we would broadly support such moves we have come to take the view that such an approach suffers from a number of disadvantages compared to the more universalist approach taken in Scotland:

- It requires complex mapping. As mentioned, it took five years (and at least £5.9m in mapping costs) to implement the CRoW Act, and only two years to implement the Land Reform Act.
- It risks creating 'access islands', where you have areas with theoretical rights of access but no lawful means of accessing them.

- It is harder to communicate to the public, making the policy ultimately less beneficial. This increases barriers to less confident countryside users and risks causing confusion which will negatively affect compliance.
- It creates openings for contestation and definitional wrangling (with fights over what exactly should constitute e.g. a ‘woodland’ a ‘river’, or a ‘waterside’) and horse-trading over what types of land should and shouldn’t be included.

Shouldn’t we focus on better rights of way, instead of wider access rights?

We need both. The existence of wider rights acts as a powerful incentive for land managers to uphold, rather than obstruct, rights of way and access infrastructure, since these become helpful tools of land management. Wider rights also help resolve existing issues with the connectivity of the RoW network, and address the question of what people can do on land - and, crucially, water - not just where they can go. Finally, they help protect areas of existing permissive and customary access which enjoy no statutory protection and can be withdrawn at any moment.

Shouldn’t we educate people first before extending any new rights?

Clearly any access reform should be preceded with a good public information campaign explaining the new system, the new rights and, crucially, the responsibilities which accompany them. However, without the promise and excitement of a new settlement on access around the corner, such appeals are likely to draw less public interest and debate. Lectures on responsibility in the absence of wider rights will make little sense and draw little engagement. Equally, there will be fewer incentives for a mass of organisations to amplify them. We believe the creation of a simple, legitimate system of access is ultimately the best foundation to ensure responsible behaviour and cultural change.