

Extending the freedom to roam

July 2023

It is almost 20 years since public rights to access open countryside commenced in England (Countryside and Rights of Way Act 2000). There are growing calls for these rights to be expanded and some groups are appealing for a 'Scottish style right to roam' to be introduced in England.

Access over the past 12 years (Cons Gov) has been kicked into the long grass (broken promises on farming schemes, Glover review, repeal of date to register historic rights of way etc.) – now is a good time to take stock and consider if the only way of improving matters is to change the system at a fundamental level.

Questions for consideration by BMC areas:

You may have seen the BMC has an online survey running at the moment so please take the time to fill this in but key questions for discussion are:

- 1 Currently in England the public have a 'right to roam' in areas designated as 'open country' (mountain, moor, heath and down) or 'common land' – which are shown as a yellow wash on OS maps - this right is defined by mapping land parcels. But, right now, it only covers 8% of England and it is not equally distributed.

Would you support the addition of more land types and if so which ones? This would help connect current areas of open access and extend our rights to new areas.

- Woodland
- Watersides
- Grassland
- Other (please specify)

- 2 In Scotland, walkers and other recreational users have a right to access most land and inland water (providing they abide by the Scottish Outdoor Access Code – a code based right of access) under the Land Reform Act.

Thinking about the differences in England (areas of yellow wash on OS maps) and Scotland (access to most landscapes, governed by a code), would you prefer the clarity of a map showing where you can go (particular landscapes) or a right to go to most places based on a code of good behaviour? Please choose one of the following:

- Map
- Code
- Hybrid (both)
- Other (please specify)

- 3 Do you think responsible wild camping should be included as part of any new access rights?

Background

- Covid awakened people's appetite for the outdoors and exploration
- Current we only have the freedom to roam on 8% of England. And it is not equally distributed – mostly in national parks / upland areas that requires transport to get to
- We are also now more aware that our outdoor spaces are not currently accessible to everyone. There are a multitude of barriers which affect underrepresented and underserved communities the most
 - 2.69m people don't live within a 10-minute walk of any green space
- While we wait for election manifesto pledges, the shadow environment secretary Jim McMahon has already committed a future Labour government to passing new right to roam legislation.
- Now is the time to be to be ambitious and bold but knowing that there will be a lengthy process of getting more precise thought here (with politicians / policy makers)

What governs our freedom to roam currently?

- The CROW Act provides a freedom to roam on foot over access land in England and Wales– defined as mountains, moorland, heath, downland, and common land - in England, without having to stay on paths. This right is **defined by maps** and subject to safeguards for wildlife, privacy, and restrictions to allow landowners to continue to manage land as they see fit.
- The rights are for activities on foot including walking and climbing
- The Marine and Coastal Access Act In England also gives us a continuous path around the coast and a seaward side area of open access which includes the right to sea cliff climbing
- In Wales, there has been a review of access reform but nothing announced yet.
- In Scotland, walkers and other recreational users have a right to access most land and inland water, providing they **abide by the Scottish Outdoor Access Code**, under the Land Reform Act. There are merits to both systems, and each approach has been working well for 20 years.
- England and Scotland also have different path networks. England has a far more extensive network, with over 160,000km of routes, compared with around 15,000km in Scotland.

Should the BMC be lobbying for an extension to CROW or a Right to Roam in England?

This is the first question the BMC is currently considering.

1 A mapped approach - extend land parcels under CROW and expand access to other land types such as woodland, watersides and grassland:

- This would double the amount of access land open to walkers and create spaces for recreation closer to where people live.

BUT

- Most CROW land is unreachable without a car and in the north of the country
- It only allows for walking, running and climbing (no other recreational activity such as canoeing or wild camping)
- The maps showing where the public have a freedom to roam (CROW) have not been updated in England since 2004
- No single methodology was used for the mapping process and no agreed guidance on how to assess land to be included / excluded from the mapping process. As a result, inconsistencies in the identification of moor and heath and the meaning of 'open country' have developed. This could happen again with new land types
- Mapping takes a long time and is complex
- New land parcels could result in more 'islands' of access land and access by land type designation is difficult to understand / communicate?

2 Or a general right of responsible access to ALL land based on a code (subject to limited exceptions):

- A Right to Roam approach which could (but doesn't necessarily need to be) based on the system in Scotland. A right to experience, not just a right to roam.
- A new approach based on civic responsibility with clarity on what is reasonable and unreasonable behaviour. A right of 'responsible access'.
- Would not be based on certain land types but based on broad access being the rule rather than the exception, with some exclusions where and when needed
- Would increase the opportunities for us all to have adventures by connecting journeys / landscapes
- Cheaper to implement
- An approach that would include other non-motorised recreational activities and wild camping (potentially) as a right to all areas of land
- A new approach that makes it easier for landowners e.g. reduced liability and consistent good practise guidelines.

BUT

- An English LRA might be simple to legislate for and would give a blanket right but would be met with strong opposition from landowning and conservation bodies and create animosity
- There will be more nature / wildlife concerns - exclusions/ management would be required with any new approach but these approaches already exist
- Need a broader outdoor code explaining what responsible access means, that is much more effectively communicated and funded, to help educate and govern behaviour - the countryside code isn't well known
- Calling for public access be expanded to all land (outside excluded areas) risks provoking calls from landowning interests to remove local authorities' and landowner's responsibilities to maintain public rights of way.
- This all needs resourcing properly – money for education, access furniture, rangers and so on

The Risk

If we push too hard and ask for a completely new approach, do we risk losing all prospect of change? Or, do we take the renewed interest (both by the public and politicians) to extend our access rights and lobby now (prospect of a new Government is on the horizon and this might be the only opportunity we have for some time)?

Need legislation and a commitment to funding to make it work (otherwise we could end up in a worse situation with regards behaviour, maintenance etc.)

Should wild camping be included as a statutory right in new access legislation? This is the second question the BMC is currently considering

- For example, do we want to see responsible wild camping being available to everyone including those presently discouraged by the absence of any legal right to do so?
 - What areas / land parcels should be considered – everywhere or particular landscapes such as the National Parks?
 - What limitations would you think acceptable in terms of where and how such a right to camp should be exercised? Should it be clear where you can and can't camp (distance from road etc. Is this enforceable) or lead with the leave no trace concept?
 - What education / responsibilities need to accompany this?
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