

IMPROVING OPPORTUNITIES TO ACCESS THE OUTDOORS FOR RESPONSIBLE RECREATION

SUMMARY OF CONSULTATION RESPONSES

INTRODUCTION

The consultation on Improving Opportunities to Access the Outdoors for Responsible recreation consultation ran from 10 July 2015 to 02 October 2015. The consultation examined the current legislative framework for access to the outdoors for recreation in Wales and explored options for change. The paper drew from the evidence gathered during the earlier review (2014) and encouraged discussion on a sliding scale of potential options, including:

- ◆ Reform procedures - making improvements to the administration of current access legislation;
- ◆ Remove restrictions - removing some of the restrictions on the range of activities that can take place on rights of way and access land;
- ◆ Revise access – extending the definition of access land to include other areas; and
- ◆ New rights and responsibilities – implementing an entirely new access settlement, which allows much greater use of land for responsible recreation.

These were not fixed proposals and were to be considered as illustrative of the types of changes that could be implemented.

No decisions have been made on whether any changes should be taken forward. The key aim of the consultation was to gather information and views from people about how potential improvements to the legislative system could impact future demand for outdoor recreation; and their potential impact on land and water concerns, including existing users, land managers and the natural environment.

Fourteen questions covered a range of issues, including access to land, water and the coast.

The consultation responses provided a wealth of information about the types of recreational activities occurring across Wales (and beyond). They also provided an insight into the challenges sometimes faced by land managers, farmers and other commercial interests. The consultation generated strong and sometimes polarised views about the current system of access to the outdoors and of how this might be improved.

OVERVIEW OF RESPONSES

There were 5,796 responses to the consultation, including 22 responses to the youth version issued simultaneously. 165 of these responses arrived after the closing date but the comments have been taken into account.

The following table provides a brief summary of the views received using the Welsh Government's response template and the non-template electronic and hard copy

responses. Responses received to the youth version of the consultation and using templates issued by outside organisations are included separately below.

A vision for access and identifying key challenges	
Guiding principles	<p>The overall majority of responses were in favour of the principles though there were a number of suggestions as to how these could be improved. Recommendations were received for including lines on safeguarding against irresponsible use through enforcement measures; a principle around informing and educating; and a principle for encouraging positive management of motorised recreation.</p> <p>Criticisms of the principles include that they fail to recognise the social barriers to access; and that they are a little vague. A number of respondents recommended including a definition of “responsible recreation”.</p>
Key challenges	<p>Responses on the whole agreed with the key challenges identified in the paper. Other key challenges highlighted by respondents included:</p> <ul style="list-style-type: none"> • The lack of clarification over access rights to and on inland water; • The need for better amenities, including car parks and toilet facilities; • The need for better promotion of existing access opportunities.
Reform procedures - making improvements to the administration of current access legislation	
Public rights of way procedures	<p>Recording rights of way: Of the 85 responses received on recording public rights of way 58 (68%) stated a preference for electronic definitive maps over the existing hard copy versions. 11 (13%) stated that digitisation was not necessary/preferable.</p> <p>Other responses included making it simpler to amend the definitive map and statement, in particular where there is a need for minor amendments, including changes to path furniture (e.g. stiles and gates).</p> <p>Overall the view of those who commented on the procedures for opening, closing or diverting routes were that the legislation should be simplified. Most stated the need to simplify the procedures for diverting routes, including making it a stand alone process rather than two separate processes – one extinguishment order and one creation order; and introducing an electronic system for making applications for diversion.</p>
Enabling local authorities to make improvements	<p>Responses were varied on what changes could help facilitate local authority improvements on the ground. The three areas of key interest were –</p> <p>i) Enhancing local authorities’ ability to remove obstructions and carry out works, including entering on to any land to maintain and</p>

	<p>improve paths;</p> <p>ii) To allow flexibility in relation to upgrading, or introducing new, furniture (stiles, gates etc.) on public paths, including making it easier to replace stiles with gates;</p> <p>iii) Improving opportunities to enforce against violations, including obstructions, on public rights of way. The majority were in favour of introducing fixed penalties and/or the inclusion of public rights of way in cross-compliance measures for farm subsidies.</p>
<p>Non-legislative in short term</p>	<p>The majority of respondents to this questions suggested that the use of volunteers be encouraged to help support local authorities to maintain paths and the identification of problems of their network. Many suggested that this would encourage people to see their local path network as a “community asset”. Others supported the use of third sector groups, including walking and off-road motoring groups, as volunteers.</p> <p>Many respondents also supported better communication, including guidance on how paths can be used responsibly, better information on current problems with the network and better promotion of routes.</p> <p>Other comments on non-legislative improvements included better signage and way marking; and incentivising landowners to allow for more routes and more varied use of existing paths.</p>
<p>Local Access Forums</p>	<p>On the whole responses to the question on LAFs focussed on their role and membership. The majority were in favour of enhancing the role of LAFs, including making them statutory consultees on changes to public rights of way; to advise on disputes; and to have a role in monitoring the implementation of local authority rights of way improvement plans (ROWIPs).</p> <p>Of the 203 respondents who commented on LAFs 94 suggested changes to the current membership of the groups. Many stated that the membership should be extended to a wider range of interests, including water and farming interests [there are no existing restrictions against including these]. A number of respondents argued that the nature of LAFs and timing of meetings often means that membership excludes those who work, in particular younger people.</p> <p>Sixty-seven comments were received on the role of LAF members. Many of these wanted to see their roles expanded - however many of these suggestions are already covered (such as landowning interests etc.). Others wanted LAF’s to have a greater role in developing ROWIPs</p> <p>Other suggestions included that the work of LAFs should be better publicised and that members should receive formal training in rights of way and other related matters.</p>

Dogs	<p>There were no suggestions that dogs should be banned from publically accessible areas though views varied as to the severity of restrictions – from muzzling all dogs to a continuation of existing regime of limited restrictions.</p> <p>Of the 172 responses that mentioned dogs, 91 (53%) stated that education and raising awareness of responsible dog ownership and highlighting the negative impact of irresponsible behaviour were critical. The issues of most concern to respondents were the impact of irresponsible ownership on livestock (worrying and biohazards from faeces) and wildlife (including ground nesting birds).</p>
Remove restrictions - removing some of the restrictions on the range of activities that can take place on rights of way and access land	
Amending public rights on paths	<p>Of the 113 responses specifically relating to allowing a wider range of activities on rights of way and access land 40 stated that they wanted no change to the rights associated with public paths or access land; 73 stated that they wanted changes to the legislation on rights of way and/or access land to allow increased access, including a number of the view that existing rights of way should be upgraded to allow for more multi-user paths.</p> <p>In addition to this specific user groups identified their interests as in need, or deserving of improved access opportunities, including cyclists – by far the highest number of responses of any group, paragliders, and horse riders.</p>
Motorised vehicle use	<p>The majority of responses that stated a view on motorised access off-road and on public rights of way were negative. However, of these very few differentiated between legal and illegal vehicular use. A number suggested segregating motorised and non-motorised users, for example, restricting use to NRW managed land, in particular, forestry areas.</p> <p>Positive responses included those from less abled people who use vehicles to access areas they otherwise could not reach.</p>
Revise access – extending the definition of access land to include other areas	
Identifying, planning and providing new and improved access	<p>Responses to this question were dominated by views on Rights of Way Improvement Plans (ROWIPs). The significant majority of responses were positive as to the purpose and effectiveness of ROWIPs. 33 expressed a desire to see their purposes enhanced to include other publically accessible areas, including woodland, lakes and coastal cliffs. 7 wanted to see the purpose of ROWIPs remain the same.</p> <p>Other responses included suggestions and views on how to</p>

	<p>identify demand and supply for paths, including monitoring usage of existing routes and utilising old railway lines.</p>
<p>New rights and responsibilities – implementing an entirely new access settlement, which allows much greater use of land for responsible recreation</p>	
<p>Right of responsible recreation to all land</p>	<p>Of the 224 who expressed a clear view in response to question 11 (the benefits and challenges of creating a right of responsible recreation to all land in Wales), or who specifically mentioned the Scottish model in their non-template response, 50% were in favour and 50% were against considering a similar system in Wales.</p> <p>Potential benefits of responsible access to all land were identified as economic, health and the simplification of rights.</p> <p>The two key challenges identified were the potential impact on livestock and land management; and implications of potential increase to land managers in liability and costs.</p>
<p>Water</p>	
<p>Increased access opportunities to and on water</p>	<p>Of the 146 who gave their view on whether there should be greater access opportunities for more activities on and near inland waters 88 (60%) were in favour. In addition to these ten respondents were of the view that there are currently no legal impediments to navigation.</p> <p>Of those in favour of increasing opportunities a number identified parking as an important requirement to enable access to water.</p> <p>Activities identified as in demand in Wales included canoeing, kayaking and swimming. Benefits identified include reducing the pressure on existing ‘honey pot’ sections of water already widely used, increasing tourism, and encouraging environmental awareness.</p> <p>Those with a view opposing the establishment of new or improved access to water conveyed two key concerns:</p> <p>a). Impact on angling – ‘increased access to more users would be detrimental to the sport and would reduce the economic benefits it brings to Wales’; and</p> <p>b). Environmental concerns – ‘increase use of canoes and kayaks is detrimental to fish breeding grounds (when rivers are low), causes damage to river banks (for access and egress) and increases biosecurity risks.</p>
<p>Legislation</p>	<p>Of those who mentioned legislation specifically in relation to access to water most were in favour of legislating. However, while many of these were of the view that legislation should establish navigation rights for all users there were also alternative views including that legislation should be applied to clarify</p>

	<p>restricted use (either to riparian users or limit use to certain times or water conditions) or to delegate powers to local authorities.</p> <p>Responses opposed to legislation expressed the view that clarity through new laws was not required.</p>
Voluntary access agreements	<p>Of the 68 respondents who expressed a view on voluntary access agreements 51 (75%) were in favour and 17 (25%) were opposed to them.</p> <p>However, the views of the 75% in favour varied on how they might be applied. A number of respondents suggested that they would only be effective if applied within a legislative framework. Others expressed a view that a key barrier to establishing effective agreements under the present system was lack of engagement by canoe groups.</p>
Licencing	<p>Eighteen responses were received in relation to licencing water activities. 14 were in favour of either licencing non-motorised water craft or expressly commercial users; 3 were opposed; and one respondent (commercial users) was not averse to licencing as long as use of the revenue was transparent.</p>
Lead body	<p>Twelve respondents stated a preference for establishing a lead body to negotiate sections of water for access. Of these two were in favour of local access forum support for the lead body.</p>
Coast	
Improving opportunities	<p>Views for and against increasing opportunities to access the coast were fairly evenly balanced. Those in favour identified better access for a wider range of activities, including coastering, cliff climbing and gorge walking; and more traditional uses, including walking, cycling and horse riding.</p> <p>A number of responses were against increasing access to the coast and of these a number advocated better promotion and maintenance of existing access.</p>
Statutory Code	
Introducing a statutory code	<p>Of the 171 who responded to this question 132 (77%) supported the creation of a statutory code of conduct for outdoor recreation in Wales. Benefits identified included that it would provide clarity on rights and responsibilities and would assist with enforcement and education. Concerns included enforcement of breaches of a code and that inadequate communication and promotion of a code would render it ineffective. A number of respondents stated that a code would need to be clear, concise, flexible, understandable and simple.</p>

	Doubts over enforcement was a key disadvantage identified by those against having a statutory code.
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Youth responses:

As well as the main consultation, there was a simultaneous consultation aimed at children and young people. This was designed by Youth Friendly and it condensed the 31 page consultation document into an 8 page colour document with illustrations. It also had fewer questions and targeted the 11 to 16 age range.

A mix of personal responses and collaborative responses from schools and youth clubs were received, leading to an estimate that at least 64 children and young people took part in the consultation.

The Youth Friendly version asked for input in 8 key areas, the responses are summarised below.

Question 1 was focused on the need to update the law

57 agreed with the reasoning behind the need to update the law, 3 were undecided and 2 did not agree. Also highlighted was a need for more opportunities, the need to be more aware of other users, the need to save money, and 1 highlighted the need to protect the environment. A youth group consisting of 13 responders also highlighted the need for legislation to be less time consuming on the land owners / occupiers.

Question 2 asked what the challenges were to taking part in outdoor activities

The main factors were cost and distance, followed closely by an uncertainty of where they were allowed to go. There was also uncertainty of what was available and an equal number who were 'bored' of what was available. A selection of other answers were given with school pressure, bullying and safety amongst the reasons highlighted.

Question 3 asked what land based outdoor activities they would like to have more opportunities to do:

Topping the list was camping, closely followed by cycling, hiking / walking, climbing, horse riding, running and mountain biking / bike trials. Other less popular answers were listed such as skate parks, football, parks, female rugby and more.

Question 4 asked what land based outdoor activities they did now:

The main activities are cycling and camping, closely followed by walking / hiking and field sports. Running, climbing and horse riding had an average level of interest followed by mountain biking. A host of other activities were also identified.

Question 5 asked what water based outdoor activities they would like to have more opportunities to do:

Top of the list of things they would like more opportunities to do is fishing, very closely followed by canoeing / kayaking. Also high on the list is gorge walking and swimming followed by sailing and then paddle boarding.

Question 6 asked what water based outdoor activities they did now:

The feedback on this question was considerably lower than that of question 5. Of the activities listed, swimming topped the list followed by kayaking / canoeing, then fishing.

Two individuals commented that it was too dangerous in rivers.

Question 7 was focused on coastal access and the opportunities available:

A variety of activities were listed including running, swimming, walking and surfing. All seemed positive about visiting the coast, with just one negative remark being that an individual could not use their mountain bike along a coastal path.

Question 8 was open for further comments:

Two comments asked for more organised events such as those delivered by youth centres. One asked for more opportunities to cycle on mountain paths. One asked for attention to be given to the wildlife and habitats, specifically mentioning Areas of Outstanding Natural Beauty. A group of 6 also highlighted that the consultation did not adequately address disability activities.

Campaign responses:

A significant number (5143) of the responses received were via templates prepared and promoted by four different organisations:

- CTC (cycling) - submitted by 4044 respondents
- Countryside Alliance - submitted by 926 respondents
- National Farmers Union - submitted by 128 respondents
- Farmers' Union of Wales - submitted by 45 respondents

CTC

The CTC provided a substantive response to the consultation, but also promoted a template response via e-petition which called for Wales to adopt the right to responsible access similar to those created by Scotland in the Land Reform Act 2003. The focus thereafter was on improving recreational opportunities for cyclists and the benefits this could bring.

Additional comments were given by 19 responders. Six of these mentioned current cycling opportunities stating that they were too crowded and that purpose built trails can be small, expensive, and either too easy or too technical.

Five mentioned benefits to communities and individuals in increasing access for cyclists and making the most out of under utilised footpaths.

Other comments included making better use of volunteers; bringing access into the 21st century and digitising the definitive map; the benefits of cycling to those less

mobile that struggle to walk longer distances; and for there to be an obligation for landowners receiving public funds to allow wider access on their land.

Countryside Alliance (CA)

The main message from the CA response is that there is already enough access and they object to further access. They highlight an objection to following a Scottish model. They also agree to the proposed simplification of the process of extinguishing or moving of footpaths.

Additional comments were given by 44 responders. Generally these views appear to be from anglers on the issue of access to inland waters and are negative towards canoeists and other users of water craft. Eight of these comments specifically highlighted the concern that water craft have a negative effect on the environment.

Seventeen comments highlighted concerns that there aren't enough resources for managing increased access to land and water. Eleven of these referred to educating and enforcing current illegal access, and suggested that opening up more access would only waste time and money.

Seven comments were received supporting voluntary access agreements (VAA's) whilst six comments suggested that VAA's were not working.

Four comments suggested that the law was clear and that there was no general right of navigation on non-tidal rivers, whilst one comment asked for there to be a clear message about the law.

National Farmers Union (NFU)

The NFU template highlights the contribution of farming to Wales. It then goes on to oppose increased access and calls for better management of existing access arrangements. They also asked for Welsh Government to share information on the costs of increased access; provide evidence to support any increase in access; and state what safeguards there will be to manage any negative impacts of increased access.

Additional comments were given by 81 responders. The majority are against increasing access and focus on managing the current network / rights better.

Health and safety of people was highlighted as a concern by 32 responders. Twenty highlighted concern for crops, livestock and wildlife. An additional nine highlighted issues around dogs.

Twenty-seven comments added to the campaign's opposition of further access. Comments ranged from stating that there was too much access, to the network not being fully utilised and paths becoming overgrown through lack of use.

Fifteen individuals took the opportunity to highlight that it was their private land and eleven individuals highlighted legal issues with six of these concerned about liability.

Farmers' Union of Wales (FUW)

FUW's template is similar to NFU and CA in that they state that there is already enough access and they object to further access. They do not believe that further access will promote an increase in the number of users, but will have a negative effect on agriculture. They also highlight the issue of dog control and fouling as well as tension between water recreations, stating that a Scottish model would negatively affect these. They also call for compensation for any future legislation that would negatively affect owners, occupiers and other rights holders.

Additional comments were given by two responders. One highlighted health and safety risks, better maintenance of the current network, and providing cash incentives for increasing access. The other also raised the issue of better maintenance of the current network as well as dog fouling and rural crime.