

The provision of access for outdoor recreation in Northern Ireland

Key Stakeholder Consultation

27th January – 29th March 2021

NI Local Council Version



Department of
**Agriculture, Environment
and Rural Affairs**
www.daera-ni.gov.uk

***Sustainability** at the heart of a
living, working, active landscape
valued by everyone.*

1.0 Introduction

1.1 The value of our outdoors

Northern Ireland has a mixture of extremely varied and beautiful lands and seascapes within a very small geographical area. Mountains, moorlands, forests, extensive inland waterways and a spectacular coastline all make up our local environment. Our towns and cities tend to be relatively small and therefore greenspace, such as hills, forests and parks are in close proximity to most of the people who live and work here. However, access to the natural environment is often restricted and the provision varies from area to area.

A recent survey* identified that the benefits of spending time outdoors during the COVID-19 lockdown were significant. 84% of participants reported feeling physical health benefits and 90% reported benefits related to mental health and wellbeing. Benefits were strongest amongst people who visited the outdoors most often during lockdown and people with quality trails and greenspaces close to home. 51% of respondents expected to spend more of their free time outdoors than they did pre-lockdown. People would most like to be able to visit local parks, the countryside and coast, to walk on off-road trails and to spend time with family and friends. There was significant support for the development and improvements of walking and cycling trails.

* Survey carried out by Outdoor Recreation NI in May 2020. The full report is available at <http://www.outdoorrecreationni.com/news/new-survey-highlights-importance-of-accessing-outdoors-safely-during-covid-19/>

Apart from health and well-being benefits, outdoor recreation contributes to Northern Ireland society in a wide range of areas, including social inclusion, community cohesion, environmental awareness, rural development and economic opportunities.

However, our natural environment is also a living, working and active environment with the majority of the land farmed and producing our food, drinking water and supporting livelihoods.

The development of the Outdoor Recreation Action Plan for Northern Ireland ([Our-Great-Outdoors-The-Outdoor-Recreation-Action-Plan-for-Northern-Ireland_SportNI-2014.pdf](http://www.outdoorrecreationni.com/Our-Great-Outdoors-The-Outdoor-Recreation-Action-Plan-for-Northern-Ireland_SportNI-2014.pdf)) identified a need to review and initiate the development and consolidation of appropriate outdoor recreation legislation.

It is important that a suitable balance is struck between enabling public access to our natural environment, while protecting that environment and ensuring landowners rights.

1.2 Accessibility

Public access to land in Northern Ireland is more restricted than other parts of the United Kingdom. Land ownership in Northern Ireland is significantly different from the rest of the United Kingdom as most farms are of a much smaller scale, with a proportionately higher number of the population with land owning interests.

Although some areas of the countryside may have been used freely for recreation for many years, the public have no general rights to wander over open land, mountains, moorland, woodlands,

the foreshore, etc. However, many landowners tolerate access to their land without a formalised agreement.

Generally speaking, in Northern Ireland, **public access is restricted to:**

a) Public Rights of Way;

A Public Right of Way is “a highway which any member of the public may use as a right - not a privilege granted by the landowner”. It is a permanent legal entity and remains in existence until it is extinguished, or diverted, by due legal process. Detail on Public Rights of Way is available on NI Direct at <https://www.nidirect.gov.uk/articles/public-rights-way>

b) where the public have the landowner’s permission to visit;

Local councils may make Permissive Path Agreements with landowners for people to use an agreed portion of their land, under agreed conditions, as a means to secure quality recreational access.

c) areas of land which are in public ownership and to which the public are invited to use; Northern Ireland’s public land comprises of just over 6% of the total land area. This includes public land managed by:

- Department of Agriculture, Environment and Rural Affairs (DAERA), including;
 - Forest Service
 - NI Environment Agency (country parks, nature reserves etc.)
- Department for Communities (DfC)
- District Councils
- Loughs Agency
- Northern Ireland Water
- Waterways Ireland

Note: Permitted access to public land does not necessarily create a Public Right of Way.

2.0 Aim of this consultation

The aim of this consultation is to seek the views of key stakeholders on the current provision members of the public have to Northern Ireland’s natural environment for outdoor recreation, and investigate how provision can be improved, while protecting the environment and recognising the needs of landowners. **This consultation is not considering an overall “Right to Roam”, or the development of National Parks in Northern Ireland.**

Stakeholders identified for initial consultation include:

- Representative groups of those who use the outdoors for recreational purposes
- Representative groups of landowners / land managers
- Environmental groups

- Those who enforce related legislation

A list of Key Stakeholders who have been invited to provide their views is provided at Annex A. If you feel we have omitted any significant group please contact us at the e-mail / address below.

A broader public consultation is expected following the consideration of responses from key stakeholders.

Submissions should be:

e-mailed (preferable) to: AccessforOutdoorRecreation@daera-ni.gov.uk

or

hard copies sent to: Stephen Emerson
RNRPD: Natural Heritage Policy Branch
Department of Agriculture, Environment & Rural Affairs
Klondyke Building
Cromac Avenue
Belfast BT7 2JA

The closing date for submissions is **29th March 2021**

3.0 Alternative Formats

On request, we can arrange to provide other formats of the documents above, such as -

- Paper Copy
- Large Print
- Braille
- Other languages

To request an alternative format, please contact us by one of the following methods:

e-mail (preferable): AccessforOutdoorRecreation@daera-ni.gov.uk

Write to: Stephen Emerson
RNRPD: Natural Heritage Policy Branch
Department of Agriculture, Environment & Rural Affairs
Klondyke Building
Cromac Avenue
Belfast BT7 2JA

Telephone: 028 9056 9432

Text Relay: If you have a hearing difficulty you can contact the Department via:

- Text Relay using the Next Generation Text Service (NGTS).
- Making a call from a textphone dial 18001 + number.
- Making a call from a telephone dial 18002 + number.

4.0 Your details:

We use this information in order to communicate with you if we need to clarify your response or for further communications.

Title (e.g. Mr, Mrs, Ms etc.)	Mr.
Forename or initials	Duane
Surname	Fitzsimons
Full postal address	Belfast City Council, 4-10 Linenhall Street, Belfast
Postcode	BT2 8BP
Email address	access@belfastcity.gov.uk

Are you responding as an:

a) Individual NO

If "YES", do you:

- Participate in outdoor recreational activities? YES / NO

Please identify which _____

- Own, or manage, land which the public may wish to use to facilitate outdoor recreation? YES / NO

Provide details (if relevant) _____

- Other (please state) _____

b) Organisation / Group YES

If "YES", does your organisation / group:

- Participate in, or organise, outdoor recreational activities? YES

Please identify which activities Various operations

- Own, or manage, land which the public may wish to use for outdoor recreation? YES
Please identify the type of land (e.g. mountain, lowland farmland, woodland etc.) A range of landscape typologies and sites including urban parks, landscaped parks, amenity open space, farmland, and hill and moorland.
- Other (please state) _____

Organisation / Group Details:

- Organisation/Group name Belfast City Council
- Full postal address 4-10 Linenhall Street, Belfast
- Postcode BT2 8BP
- Contact name Duane Fitzsimons
- Contact email access@belfastcity.gov.uk
- Which category best describes your organisation (select one item)
 - Community organization
 - Third sector / equality organization
 - Landowner / land manager
 - Private sector organization
 - Representative body for professionals
 - Local government
 - Community Planning Partnership
 - Public Body, including Executive Agencies, NDPBs, NHS etc.
 - Academic or Research Institute
 - Other (please state) _____

Publication of responses - your permissions:

We may wish to publish responses to this consultation, in summary and where possible in detail.

We would like your permission to publish your response:

Please select one item (Required)

- Publish this response with your name
- Publish this response without your name
- Do not publish this response

Note that when we publish reports on a consultation, we do not publish your email or postal address or other information about you.

We may share your response internally with other Northern Ireland Government policy teams who may be addressing the issues you discuss. They may wish to contact you. Are you content for Northern Ireland Government to contact you in relation to this consultation exercise?

Please select (Required)

Yes No

5.0 Consultation:

You are invited to respond to whichever of the following questions are relevant to you, or those who you represent. However, you should not feel obliged to respond to questions which are not.

Do not feel limited to the space provided. Please feel free to expand the comments boxes or attach additional pages if required.

PLEASE NOTE: This consultation is not reviewing specific sports in Northern Ireland, it is specifically looking at the provision of access to the countryside to partake in outdoor activities.

5.1 Current Provision

Q1: Do you believe there is sufficient public access to the natural environment for outdoor recreation in Northern Ireland?

NO

Please feel free to comment below

Within Belfast City Council there is great variation across the Council area in terms of public access to the natural environment for outdoor recreation. For example, some parts of the Belfast City Council area have unfettered access to parks in Lagan Valley Regional Park and along the Connswater Community Greenway while other parts of the city do not have the same scale of open space large enough for outdoor recreation.

There are large public body landowners within the Council area but access to some of these sites is limited to one access point. This means the public must travel there using private transport or the limited public transport available.

The main issue is the necessity to travel to sites by private transport. Active travel opportunities to these locations is limited in many instances.

Residents of Belfast City Council would also seek outdoor recreation opportunities outside of the Council area. As this relies on the necessity to travel to these sites the choices are quite often limited by the availability of private and public transport as there are limited opportunities to walk or cycle to these locations in an off-road manner.

Access to the outdoors relies heavily on information being available prior to the visit. In essence this is by word of mouth, website information, and signposting. This can often mean that some locations can become more popular than others which puts pressure on these areas at peak times. This problem has existed for many years but during the Covid-19 pandemic has been exacerbated causing problems in areas like the Mourne Mountains, Marble Arch Caves Global Geopark and the Causeway Coast. Lesser known locations have also experienced higher visitor numbers.

Q2: Do you feel that Public Rights of Way are adequately identified to the public?

NO

Please feel free to comment below

The legislative requirements for identifying Public Rights of Way is now largely outdated due to advances in digital mapping. It refers directly to preparing maps of specified scales for the routes. Some routes in their nature are very short and therefore having a map prepared of this may not be a valuable resource or the route is used by a very localised demographic and there is local knowledge of it.

The way in which the public now undertake outdoor recreation such as walking and cycling relies more on digital platforms with a higher reliance on GIS. Printed maps while still advised for upland areas are not the main mode of retrieving information for many of those engaged informally in outdoor pursuits.

At present the Council can sign and way mark Public Rights of Way (with agreement of landowners) but in some instances this is not appropriate or the landowner refuses to agree.

Primarily for land owners/managers (however views are welcome from all participants):

Q3: What difficulties have you encountered, or do you foresee, in establishing or managing public access through your land, or the land you manage?

In urban locations Public Rights of Way have attracted antisocial behaviour in instances where they are in the form of short pathways between buildings and gardens. The present legislation has no means of dealing with this which means it can be a considerable issue to address. The interpretation of the legislation is that access to a Public Right of Way must be open 24/7. This means the Council cannot close off public rights of way in the evening.

At present the public have access to the vast majority of the Council's land which consists of park and open space. By opening-up new access points or facilities to the Council's land there are greater threats to biodiversity through for example disturbance, habitat loss and increase in invasive species and other nuisance issues such as littering and dog fouling. There are also increased associated costs in terms of maintenance of infrastructure but also increased management costs for example in terms of invasive species.

The Council have to make consideration in regard to obligations under the Disability Discrimination Act 1995 to ensure that access is open to all users. When designing access to parks the Council consider gradients, passing points and resting points. New accesses would also need to be considerate of these.

If opening hours are to be extended within the Council lands there is a decision to be taken regarding whether or not to light the paths.

The Council have other infrastructure considerations in urban areas where there are expectations around accessible public conveniences. In addition to this there is also an expectation that car parking would be provided.

Much of the public land is bordered by pockets of privately owned land. The present legislation has a number of barriers which hinder the progress of agreeing with landowners the right of access across their land. The other issue faced by landowners is that by opening up their land for public access across it they may encounter other adverse impacts such as trespass or damage to property.

At present the Council have an annual fund for maintenance of its path networks on the Council lands. Presently the Council do not have a budget for the maintenance of public rights of way and public paths.

The duty of care to the public in the event of adverse or seasonal weather. This includes the necessity to grit the path networks. This particular concern was raised through Council in January 2021. Gritting the entirety of the path networks would incur substantial cost beyond that already budgeted for.

Primarily for land owners/managers (however views are welcome from all participants):

Q4: What would encourage you to agree to public access through your land, or the land you manage, for recreational purposes?

A centralised fund designed for construction and maintenance of public paths would encourage Councils to approach landowners to enter into agreements for access across their land. The duty to maintain Public Paths restricts the desire of Councils to build new paths on land which they do not own. The present legislation puts an onus on the landowner to maintain any Public Right of Way. A fund to which the Council or landowner could apply would relieve both parties of potentially large financial obligations.

Reparations to compensate for a change in land management. The Council lands have been eligible for Single Farm Payment in the past. With this scheme now to be replaced it could be an opportunity for the landowners to be paid for allowing public access on or across their land. This money could be used to invest in and manage the assets.

At present the Council are holding an enquiry into the Local Development Plan which will inform the Council's powers in relation to planning. Within the framework there is an opportunity for a voluntary contribution from developers to enhance open space.

Public Land

Northern Ireland's public land comprises of just over 6% of the total land area. This includes public land managed by:

- Department of Agriculture, Environment and Rural Affairs (DAERA), including;
 - Forest Service
 - NI Environment Agency (country parks, nature reserves etc.)
- Department for Communities (DfC)
- District Councils
- Loughs Agency
- Northern Ireland Water
- Waterways Ireland

Q5: Do you believe that an adequate amount of public land is available for outdoor recreational purposes?

YES

Please feel free to comment below

In the Belfast City Council area yes. The Belfast Open Space Strategy (BOSS) 2035 identified that within the Council area the Field in Trust standard of 0.8 Hectares per 1000 people was surpassed. However, at a neighbourhood level there are disparities when the walkable distance to the parks is mapped. These vary across the Council area and are not unique to any particular neighbourhood. The disparities mean that in many instances members of the public either have to travel to a site to enjoy recreation or walk or cycle within their neighbourhood.

The utilisation of public land could be examined to determine opportunities to meet many policy areas in the BOSS which has 7 Strategic Principles which include a range of outcomes. These include better connectivity, improvements to health and wellbeing and protection and enhancement of the natural environment.

Q6: How could existing public land be better used in relation to outdoor recreation?

Formalised access by means of medium to long distance walking routes. Successful demonstrations of this are the Lagan Towpath (part of the Ulster Way), Connswater Community Greenway, and Comber Greenway.

Where there are satellite sites (for example in the Belfast Hills Working Area) to have access at more than one location could alleviate pressures on car parks. This issue while historic has come to the fore during the Covid-19 pandemic where the PSNI have had to close roads. However, in relation to opening more entrance points to sites this would need to be in line with any visitor management plan which the landowner has to ensure it is appropriate and resourced.

Consideration has to be given to conflict of use within public lands and how it is best to mitigate against risks. This includes cohesion between use of the land as an asset and enjoyment of the land for recreation. In some instances introduction of additional recreational use (authorised and unauthorised) can lead to user conflict on paths. If not dealt with effectively there may be a liability on the landowner from numerous perspectives.

N.B. outdoor recreation within Belfast City Council would also take into consideration outdoor sports. There are a number of parks and open spaces which include pitches used by local clubs.

Primarily for public land managers (however views are welcome from all participants):

Q7: What difficulties have you encountered, or do you foresee, permitting public access to the land you manage where access does not currently exist or where increased access is sought?

Budget to maintain the assets and infrastructure within the lands.

In many instances changes to the path network or new build path networks will require planning approval.

At sites where there is more than one access point difficulties arise in managing visitors at these locations. There are additional pressures on staff resources for opening and closing. In some instances new access points can:

- place pressures on residential parking within that area or cause problems with roadside parking preventing access for staff, tenants and lessees, users and emergency services.
- facilitate anti-social behaviour where the other exit points allow perpetrators to evade the police by dispersing into the park or neighbourhood.

In addition to this there are also other considerations such as habitat loss, disturbance and the introduction or increase in the spread of invasive species.

Any access or recreation facilities need to ensure compliance with Council's legal requirements including health and safety and environmental requirements.

Primarily for public land managers (however views are welcome from all participants):

Q8: How could any difficulties identified in Q7 be reduced or negated?

As a design approach, the Council seeks to build with natural surveillance as a guiding principle. This ensures that assets are not hidden from public view.

To undertake a full design and management plan for the introduction of new accesses.

This plan should look at issues such as:

- car parks/ parking available locally
- whether it will be required to open and close the access at dawn and dusk
- site management post development including the potential for grazing, woodland planting or open grassland.
- costed maintenance schedule post development.
- Community consultation through the design process to ensure that there is buy-in from the neighbourhood.

Where access is provided across another land parcel to have a legal agreement executed with clearly stipulated ownerships and responsibilities. To have secure boundaries and signage to ensure that the public stay on the agreed path without trespassing onto another land parcel.

5.2 Current Legislation

The **Guide to Public Rights of Way and Access to the Countryside: Guidance Notes on the Law, Practices and Procedures in Northern Ireland** is a practical manual, produced by the Environment & Heritage Service (now the Northern Ireland Environment Agency, Department of Agriculture, Environment and Rural Affairs), which aims to clarify the legal position in Northern Ireland, and the practice and procedures that should be followed.

The principle legislation relating to access to the countryside in Northern Ireland is **The Access to the Countryside (NI) Order 1983** (<https://www.legislation.gov.uk/nisi/1983/1895/data.pdf>) which deals with public rights of way and access to open country. It also identifies responsibilities on local councils and landowners.

The Nature Conservation and Amenity Lands Order (Northern Ireland) Order 1985 (<https://www.legislation.gov.uk/nisi/1985/170>) gives the Department of Agriculture, Environment and Rural Affairs powers to undertake a variety of roles for the enjoyment and conservation of the countryside and amenity lands.

The Recreation and Youth Service (Northern Ireland) Order 1986 (<https://www.legislation.gov.uk/nisi/1986/2232>) has been used by local councils to make Permissive Path Agreements with landowners for people to use an agreed portion of their land

as a means to secure quality recreational access. A permissive path agreement can operate under limitations and can endure for whatever period of time the council and landowner are willing to agree. It does not create a new public right of way (where one did not already exist), but a route which the landowner has given permission for people to use.

Questions 9 - 11 are aimed that those who have had cause to refer to legislation in relation to access issues, however views are welcome from all participants.

Q9: How often would you refer to legislation in relation to access issues?

- Daily / Weekly
- Monthly
- Yearly
- Rarely
- Never

Please feel free to comment below

Current legislation is referred to on a weekly basis.

Q10: Please identify any difficulties you have with current legislation and/or Guidance in relation to public access.

Please be as specific as you can and identify which legislation and section you are referring to.

- The layout of the Access to the Countryside (Northern Ireland) Order 1983 presents many difficulties. Much of the work undertaken by the Council looks only as far as Article 15 where most of the duties and powers lie. The remainder of the Order requires much in the way of legal counsel for interpretation. The legislation covers many areas and as such can be confusing. Any future changes to the Order need to make it clear as to what the legislation is trying to achieve; whether the legislation is trying to promote and protect public rights of way or promote and develop access to the countryside. These are separate issues in many instances and need addressed as such.

- There is no distinguishment made between urban and rural public rights of way. The Order legislates in both instances. This can become a stumbling block in assertion as the public may not read the title of Access to the Countryside (Northern Ireland) Order 1983 as being relevant to the matter. The legal obligations placed on councils in relation to the Order are not isolated to the countryside, any future legislation/guidance needs to bear this in mind. It is imperative that future legislation or Order takes into account outdoor recreation pursuits and the urban environment. Currently all public rights of way are not isolated to the countryside, some have absolutely no connection to the countryside.

- Terminology within the current Order it is unclear with reference to rights of way and public rights of way. This terminology needs to be made explicitly clear. Clarity is also required as to the which, if any, right of ways (asserted and alleged) are covered within the remit of the Order. Often in urban areas queries are raised with easements and rights of way for the benefit of private properties.

- Within the Belfast City Council area some asserted Public Rights of Way have become places for anti-social behavior. Public rights of way provide a legal means of passing through an area, however there are issues when people loiter in an area. Unfortunately, there is nothing in the current legislation to allow for actions to mitigate against this risk including temporary closure or extinguishment on these grounds. The present legislation does little to assist with mitigation of anti-social behaviour and as a result this can lead to a multiple agency resolution being required including police and anti-social behaviour officers. In a lot of urban cases asserted Public Rights of Way are short-cuts between housing developments where no one individual has any clear responsibility and in many instances the path falls into disrepair and becomes overgrown. This makes it undesirable for members of the public and for the adjoining homeowners. The Council does not currently have a right to go on to land that it does not own to maintain and undertake any remedial work to address issues: if the council had clearer duties, the issue could be more effectively addressed. However, this would have financial implications for the Council and we would advocate for a central fund to address issues such as this.

The duty to maintain (Article 3 (2))

- Much time is taken up with correspondence with landowners to remove vegetation which is enclosing the public right of way. The wording means that landowners often refute their duty to maintain resulting in delays in resolving the issue. This is largely due to a lack of clarity on the matter where the legislation states, "A district council may, after consultation with the owner of the land concerned, maintain any public right of way; but this paragraph shall not relieve any person from any liability to maintain a public right of way." "Any person" is an ambiguous term when in essence it actually should state owner of the land concerned. Furthermore, it should be clarified whether the duty to maintain lies with the freeholder or leaseholder. In most cases not all landowners of the pathway are known, this is quite likely to be the case where a pathway has existed for many centuries.

In cases where landowners are not known and because of the unclear duties of the Council, the ability for the Council to take action is not clear which leads to the issue not being resolved. If a Council surfaces a Public Right of Way (or makes changes to the boundaries by erecting fences) it should be made clear whether there is a requirement for a Public Path Order. Whether the Council are liable for the maintenance of any infrastructure they place on the route should be made explicitly clear. The Council would advocate for a central pot of funding for instances where the ownership of the land is not clear and they are required to undertake work to maintain or address issues relating to a Public Right of Way.

- The council's duty to keep open and free from obstruction should be expanded on. It is unclear at which point the Council should ask the landowner to take action. It is not clear what exactly the term obstruction covers. If, for example, a tree has fallen from an adjoining land onto a public right of way it should be made clear who is responsible for the removal of

the obstruction - whether it is the landowner of the ground the tree has fallen from, the landowner of the path or indeed the council.

Notices deterring use of public right of way (Article 10)

- The NI Direct website information on Public Rights of Way site states in Landowner's and Occupiers Duties and Rights there is a duty "not to put up a notice likely to deter use of a right of way." It is very unclear as to what is and is not acceptable. The following is used as an example only; is it appropriate for a landowner to warn members of the public that there is livestock in the field? Is it appropriate for a landowner to ask members of the public walking dogs not to walk dogs across a particular right of way? (There have been instances in the past few years where members of the public have been trampled to death when out walking dogs in areas where livestock are present). Could this type of a notice be seen as a deterrent? Any future changes to the Order must make it clear what is and is not acceptable.

Cycling (Article 20)

- Cycling on public paths is stated as a right under Article 20 on a public path. In some areas the necessity to enter into Public Path Agreements or Orders is because the council is unable to determine the true status of the route or as per article 12 it appears to a district council that there is need for a public path. In many instances the need to be able to cycle on a public path is unfeasible due to topography or where a path is agreed across a field. In these instances the ability to surface a path to make it usable is unfeasible or would have an adverse impact on the safety of other users. In the case of a Path Order on farmland the ability to carry on the ordinary business of a herd farm would be impossible due to the need for gates and the destruction of the pasture.

- The Recreation and Youth Services (Northern Ireland) Order 1986, under Article 5, which district councils use to enter into permissive path agreements is determined from the power for a council to provide facilities for recreational, social, physical and cultural activities. This power at face value refers more so to the lease of land parcels as opposed to the capacity for a council to place a path on the land. A bespoke piece of legislation would make the actual power to undertake this more explicit.

Other issues

- The council's duty to record public rights of way, while undertaken, should be registered with the Land Registry. At present there is no onus to do this except for Public Paths.

- Whether or not a landowner or the Council should indemnify against public liability should be stated. The implications of health and safety and accessibility are not considered.

- The process where a public right of way is alleged on a piece of land owned by a government department should be made clear.

- Most of the information available to Officers has been gleaned over the years from best practice examples and case history. This sharing of information was undertaken previously through a Countryside Officers Forum. Unfortunately this group has largely lapsed with occasional reconvening by third party organisations. This was a pivotal forum for sharing information. Most officers overseeing this legislation, work in isolation so sharing principles

and case history is vital. There would support a consistent approach taken by the 11 Councils in relation to the implementation of the Order.

Q11: How could the issues raised in Q10 be resolved?

Please be as specific as you can and identify which legislation and section you are referring to.

- To have a concise piece of legislation which makes reference to both urban and rural public rights of way. For the legislation to explicitly state the means for recording Public Rights of Way in a meaningful manner. For the legislation to state what constitutes an obstruction. For DAERA to designate the classifications of land uses in terms of open country. The Council have been able to determine the typologies of parks within its own estate however where lands are outside of public ownership it is difficult to determine whether invoking Article 39 of the Access to the Countryside (Northern Ireland) Order 1983 is appropriate.
- To have a centralised fund within DAERA to which councils and landowners can apply to for the maintenance of public rights of way. This could alleviate the duty to maintain from the landowner which can prove expensive in the long term. It would also allow for a more expedient way to deal with issues like vegetation encroachment in a proactive manner as opposed to reactive. If the landowner refuses to undertake the work, the powers of the council should be made clear to ensure the public right of way remains open as per the statutory duty.
- For legislation to be reflective of other uses of paths outside of walking. For cycling to be an activity which the Council and the landowner agree on, or in the case of the Public Path Creation Order, to have a degree of variance in instances where the activity is inappropriate. Also within the Legislation to have consideration provided where all or part of the route has a vehicular rite of passage and how this should be recorded and the Councils duties in this regard.
- Have guidance on the issue of alleged public rights of way on government land and how a satisfactory resolution can be achieved.
- A more consistent approach taken across Northern Ireland with the opportunity for Countryside Officers to share principles, working examples and case history through a Countryside Forum
- Consideration should be given to the development of access forums, (land owner (public and private) and user representation) access strategies and networks, including core path networks (discussed later in this response.) However work would be required to look at how these are established support including membership, roles and responsibilities and also what support would be required including appropriate funding.

5.3 Opportunities

Q12: How could the provision of access to the outdoors for recreational purposes be improved?

- Within Belfast City Council there is a large amount of public land owned by many different public bodies. Overarching landowner consortiums have been able to identify opportunities and work to resolve issues. However, the Access to the Countryside Order relates only to lands which are not managed by Government departments. This means that there is often a query over the council's powers in relation to access. To have clearer guidance on this matter would help to resolve the unanswered questions.

For example within Lagan Valley Regional Park the centralised body overseeing the working area of the Regional Park brings together two district councils, a number of government departments, and land managing NGOs. Without this centralised body, open dialogue between the various stakeholder groups would not be possible. The success of the Regional Park can be seen in the numbers of visitors to the area from local, national and international visitors.

In East Belfast the Connswater Community Greenway has had similar benefits for the local community. This includes animation of the parks and open space along it. This model will be replicated in other areas of the city such as the Forth Meadow Community Greenway currently in development. However the existence of these types of organisations is largely due to community leadership around the issues of access for outdoor recreation and the protection and enhancement of wider environment.

- Access should be aligned with other policy agendas and projects, such as *A Bolder Vision for Belfast* which is informing the Belfast Urban Greenways, Living with Water Programme, sustainable transport, health, physical activity, carbon reduction, air quality improvement, school Education provision outdoors, stewardship, outdoor education.

What have other jurisdictions done to improve access for outdoor recreation?

Legislative changes in Great Britain over the past 20 years have increased the availability of access to the natural environment significantly. Under the Countryside & Rights of Way Act 2000, especially since 2005 people across England and Wales have the freedom to access land, without having to stay on designated paths. Approximately 8% of England and 20% of Wales is classed as 'access land'. In Scotland the Land Reform (Scotland) Act 2003 established a right of non- motorised access over most land and inland water.

The provision of a "Right to Roam", and the development of National Parks has previously been considered in Northern Ireland and **is not being considered as part of this consultation.** However some aspects of Scotland's Land Reform Act 2003 may provide the basis for improvement in Northern Ireland.

As a requirement of the Land Reform (Scotland) Act 2003, core path plans are drawn up by local authorities after consultation with communities, land managers and path users. **Core path networks** are interlinking routes that normally join, or are close to, communities. They are normally part of the wider path network of long distance walking and cycling routes, and local and community paths. Many Northern Ireland local councils have included the development of path networks in their current Community Plans.

Q13: Do you believe that a Core Path Network would be a possible solution to improving access for outdoor recreation?

YES

Please feel free to comment below

In principle, the Council would support the concept of a Core Path Network but this would need to be researched in further detail with the involvement of all stakeholders, and the options around Council involvement would have to be brought through the Council Committee system for consideration and approval.

A process for the identification of a Core Path Network would need to give landowners, public and private, an opportunity to provide any access opportunities they can or address any issues they have, such as trying to keep people to one area and protect the commercial interests they have in their property and bring to the fore any concerns that they have around biosecurity.

A Core Path Network could be useful in relation to rural areas. However, in the Belfast City Council area footpath provision along roadsides is already largely undertaken by the Department for Infrastructure. In relation to greenways within the urban context for active travel this is largely something which falls under remit of DfI, again often in partnership with the Council. Due to the limitations of the legislation falling outside of the Government maintained lands again there is a query regarding powers. To resolve this the Connswater Community Greenway was constructed on lands largely purchased by the Council.

A Bolder Vision for Belfast states that there is a need to revise and rebalance the road network within the council area. The network has been designed in such a way that it caters more for the private car and public transport than for active travel.

However connectivity into other council areas is of benefit to the entire region as it has potential to provide for all types of users, and may include routes on inland water for paddlers and other water users connecting with the work being done on and money being provided for Green and Blue networks.

Q14: What would be the potential opportunities, benefits, or uses, of a Core Path Network in Northern Ireland?

In relation to the rural communities within the Belfast City Council area it has the potential to connect these areas to the urban area and services in a safe manner. In the case of Edenderry, the rural community is already connected to the urban area by means of several Public Rights of Way. In the other areas like Hannahstown and Lough View this matter is a little more complex due to the topographical nature of these settlements.

To look in greater detail a core path network at Hannahstown has the potential to become part of a greater connection to the Belfast Hills bringing with it tourism potential. This has potential linkages to a number of public body assets including Divis and Black Mountain and Colin Glen Forest Park. However, there would be limited scope for outdoor recreation other than walking. Inclusive access could prove to be a challenge due to topography. At Lough View there is a potential to link to the Connswater Community Greenway in a circular loop.

The core paths planning process involves extensive consultations, and included any objections being formally considered through local inquiries where necessary, before each plan was finalised and adopted. This provides landowners with a forum through which their views can be expressed.

The benefits to developing infrastructure for walking and cycling are widely documented in other jurisdictions. Provision of a choice of routes and the option to get out and about from your door in an urban environment can remove the need to drive to the start of a route. Having access to good quality, well maintained community paths close to where people live is essential for encouraging everyone to be active. Well-connected and attractive public places, routes and streets encourage more people to walk and make active travel choices in their daily routines (e.g. shopping, exercising, and meeting people).

An increase in the attractiveness of walking as an option for local journeys can benefit all in society. Safe and convenient pedestrian facilities can provide an increased sense of community identity, feelings of 'belonging' and can lead to expansion of social networks, as areas can become hubs for social recreation. This case has been proven on the Connswater Community Greenway in Belfast.

To look back to Scotland as a case study, the promotion of walking for children can take place during school, as well as part of travel (walking and cycling) to and from school. Evidence shows that walking to school can improve performance, concentration and learning. Regular visits for outdoor learning to local woodlands, beaches or other greenspaces incorporating opportunities for walking help young children learn healthy and active habits and make connections across all curriculum areas.

Q15: What difficulties do you foresee in establishing a Core Path Network in Northern Ireland?

We would suggest that further detailed research around the options for establishing a Core Path Network is required and that this should explore role and responsibilities of various organisations including councils, the resources required for both build and maintenance and potential funding models.

From the Council's experience we would suggest that the key difficulties will be around allocation of funds for construction, management and maintenance of a Core Path Network. Currently in terms of management and maintenance, where the owner of the land is not evident from land searches, the Council has had difficulty sourcing budget and departmental responsibility to clear asserted Public Rights of Way. While the Council do have powers under Environmental Health these deal with the matter when the problem has arisen and not proactively maintaining the route. These budgetary constraints would be exacerbated by an increase in paths to maintain.

There is a lack of centralised information relating to public rights of way and public paths in the 11 council areas. Some information does exist on third party websites relating to walking routes. If a Core Path Network is to be led by the 11 Councils rather than by central government then a lack of shared information could lead to a parochial style of development with cross council networks aligning to the adopted road network. The limited capacity for councils to work together outside of landscape partnerships and join a network of paths could prove to be an impediment to development of such a network. There is also a lack of information available regarding the road and footpath network adopted by the Department for Infrastructure.

If there is no agreed standard of path build then disparities will arise from council to council. The implications of the Disability Discrimination Act 1995 on the construction standard of a Core Path Network should be explicitly stated. The intended nature of a Core Path Network should be made clear. Routes for connection to green space, to other settlements or active travel all have their own design requirements. There are also considerations to be made around what makes these spaces safe for younger and older members of the population including natural surveillance and gradients.

The lack of centralized information again arises in relation to government department, local Council and Housing Executive lands. While these lands may be viewed as public assets by their respective owners the lack of shared information means they often are not recorded within the public land databases within the area.

Liability is a real concern for landowners. In 2017 Belfast City Council met with DAERA on this issue and tabled an assessment of the situation from BCC Legal Services, on case Law and specific examples which showed the issue is not clear. This does not provide a council officer any comfort in providing that clarity and assurance to a landowner who they are trying to secure a route through their land. More recently Outdoor Recreation Northern Ireland identified that there have been no successful challenges against a landowner in court, however the settlements made outside of court are unknown.

Biosecurity is a concern for many farmers who hope to sell to large supermarket chains. The lack of public conveniences for recreational users causes concern. Additionally there are also hazards posed by littering which can kill or seriously injure livestock. The biosecurity risk is also posed by recreational

users carrying disease from one area to another is another hazard which needs to be addressed. Dogs in particular cause concern for landowners of herd farms. Especially in relation to sheep worrying which by the 1990s had made sheep farming in the Belfast Hills unprofitable. Additionally cattle may pose a threat when startled or divided from their young.

Q16: How could landowners be encouraged to provide access, through their land, to develop a Core Path Network?

To have landowners duties and undertakings written concisely within the legislation. Clarity on their liability and duty of care toward the public would enable the Council to assure the landowners and open more conversations around access.

An availability of funds to construct, maintain and manage a path across their land.

The ability to manage access in respect of the vested interest they have on their property.

For the legislation to address certain misnomers often cited in relation to public rights of way including the requirements of usage levels and the length of time the public right of way has been in use.

To ensure the involvement of landowners in any relevant forums as outlined in other answers.

Q17: What features would you like to see in a Core Path Network? (e.g. cycle lanes, circular routes etc.)

Within a Core Path Network there should be considerations made in regard to cycling and also where appropriate bridleways. Where possible the Core Path Network should also look at the recreation potential of blueways. With these considerations in mind there should be a distinction allowed for whether the core path is for active travel or enjoyment.

Circular routes from urban environments should be an aspiration to promote more physical activity, more often.

An ideal position for Northern Ireland to be in, would be to have people choosing to walk and cycle from their door for leisure and going further than that to people choosing to walk and cycle for journeys of 2 and 5 miles respectively, seeing a reduction in single occupancy car journeys to work and school. People will only consider walking and cycling for utility journeys if they are able to participate in these activities for leisure.

Consideration of car parking and public transport as part of the plans. While the idea is to remove the need to travel for outdoor recreation the interest of a core path as a tourism asset should not be overlooked, for example Lagan Towpath opening up Lagan Valley Regional Park. There are long term historic issues around certain areas of the towpath near to large road networks where there are car parking pressures, for example Shaws Bridge.

In addition to this there should be guidance provided around the need for services like toilets and bins.

New access to the natural environment should take in the opportunity to enhance biodiversity and broader ecosystem services. Provide an opportunity for all members of the public to experience, learn about and enjoy nature. All opportunities to encourage the public to engage more with the rural landscape and appreciate the agricultural use of it, while mitigating against adverse impacts such as littering, dog worrying, and overfeeding.

Q18: What other opportunities, in relation to the provision access for outdoor recreation, should be considered?

The BOSS identifies a number of outcomes in its strategic principles including: providing welcoming shared spaces; improvements to connectivity, health and well-being; enhancing the built environment; increased resilience to climate change, and protection and enhancement of the natural environment; as well as civic pride.

We would propose the re-establishment of the Outdoor Recreation Forum – however we would suggest a review of membership and ensure that it include all relevant officers that have a role and across in 11 Councils. And that feedback is sought from key stakeholders and partners at relevant points.

In the Belfast City Council context to inform other policy agendas and projects, such as Belfast Urban Greenways project, Living with Water Programme, sustainable transport, health and physical activity programmes. The benefits could contribute to carbon reduction, and air quality improvement.

A population who make use of access routes local to them and act responsibly when doing so. That there are measurable benefits as a result which provides continued justification for infrastructure for walking and cycling versus provision for further road building/widening.

Access in Northern Ireland should be aligned to a national performance framework and to physical activity outcomes. National and local walking and cycling strategies, physical activity strategies and active travel programmes should tie directly into this with outcome based performance indicators. The opportunity should be taken to look at future path construction with a view to capturing the social return on investment. This will identify areas where the intervention has wider benefits to include health and wellbeing, the local economy, and environmental services including land management and ecosystems.

5.4 Miscellaneous

Q19: Please feel free to provide further views on any aspect of the provision of access for outdoor recreation in Northern Ireland

The present format of reporting asserted Public Rights of Way to DAERA is an opportunity to begin a centralised mapping file to record Public Rights of Way using GIS software. This could be made available to the public through the various Ordnance Survey NI websites.

The OutmoreNI.com website is a great resource for all outdoor recreation and is currently the only website that includes these opportunities. However, some of the routes are missing as there is an onus on the promoted walking/cycle/canoe routes.

There is a dataset created by DfI for a large portion of the Belfast Metropolitan Area which includes the cycle infrastructure in its various forms. There are gaps with the other 10 Council areas. However, I understand that Derry City and Strabane District Council record theirs on an OSNI platform.

Within the scope of this consultation the definition of outdoor recreation should be explained further. It can be interpreted that this is solely focused on walking and cycling while others may see outdoor recreation as encompassing outdoor team sports as well as solo or passive activities.

Submissions should be e-mailed (preferable) to: AccessforOutdoorRecreation@daera-ni.gov.uk

or hard copies sent to:

Stephen Emerson
RNRPD: Natural Heritage Policy Branch
Department of Agriculture, Environment & Rural Affairs
Klondyke Building
Cromac Avenue
Belfast BT7 2JA

The closing date for submissions is **29th March 2021**

THE FOLLOWING QUESTIONS ARE SPECIFICALLY FOR LOCAL COUNCIL OFFICERS AND HAVE NOT BEEN INCLUDED IN THE GENERAL KEY STAKEHOLDER VERSION

Q20: How many Public Rights of Way are in your council area?

15 public rights of way, 4 public paths

Comments:

Two public paths relate to lands owned by a government department and have no public right of way as per the agreement of the departments.

One public path is a diversion on a previously asserted public right of way.

The fourth public path is a 5 metre stretch of the Connswater Community Greenway where the landowner could not be contacted.

What barriers are there to providing/maintaining this information?

None

Q21: How many of these Rights of Way are currently being asserted?

None

Comments:

There are 52 alleged public rights of way files. Of these 13 cases are open some are in the preliminary stages of neighbourhood survey. Others are potential strategic links which are being considered for public path creation where the evidence has not proven conclusive or there is no basis to assert.

What barriers are there to asserting Rights of Way?

Government Department freehold title on the land, difficulties identifying landowners, inconsistency in evidence from public survey. A lack of public knowledge and understanding of the legislation and council duties.

Q22: (a) Is there an up to date map which identifies Public Rights of Way are in your council area?

YES

(b) Is it publically accessible?

NO

Comments:

The short nature of some public rights of way and public paths makes mapping them at a relevant scale difficult.

What barriers are there to providing/maintaining this information?

In urban areas there are also a number of adopted roadways which makes map making difficult.

Q23: How many Public Rights of Way have been developed in your council area in the past 5 years?

None

Comments:

Belfast City Council does not undertake any maintenance of public rights of way other than removing encroaching vegetation in instances where the landowner cannot be determined. In general the wording of this question is unclear. Under the present Legislation whether or not a council can develop a public right of way is unclear. Public paths (which are public rights of way unless stipulated otherwise in the agreement), however, are another matter as the council powers are clearer in this regard.

What barriers are there to developing Rights of Way?

The financial implications of maintaining these in perpetuity as assets. Whether the council have the legal powers to instigate improvements to the surface and surrounds of Public Rights of Way is not made clear in the legislation.

Land which has not been registered in freehold makes engaging with a landowner a difficult task.

List of Groups invited to participate in “The provision of access for outdoor recreation in Northern Ireland - Key Stakeholder Consultation”

If you feel we have omitted any significant group please contact us at
AccessforOutdoorRecreation@daera-ni.gov.uk

Angling NI
Antrim and Newtownabbey Borough Council (Countryside Officers)
Ards and North Down Borough Council (Countryside Officers)
Armagh City, Banbridge and Craigavon Borough Council (Countryside Officers)
Belfast City Council (Countryside Officers)
Belfast Hills Partnership Recreation Group
British Horse Society
Canoeing Association of Northern Ireland
Causeway Coast Adventure Racing (CCAR)
Causeway Coast and Glens Borough Council (Countryside Officers)
Causeway Coast and Glens Outdoor Recreation Forum
Council for Nature Conservation and the Countryside
Cycling Ulster
Derry City & Strabane District Council (Countryside Officers)
Disability Action NI
Disability Sport NI
Fermanagh & Omagh District Council (Countryside Officers)
Horse Sport Ireland
Irish Kite Surfing Association
Irish Water Ski Federation
Leave No Trace Ireland
Lisburn and Castlereagh City Council (Countryside Officers)
Local Rural Support Networks
LVRP recreation forum
Marble Arch Caves UNESCO Global Geopark
MENCAP
Mid and East Antrim Council (Countryside Officers)
Mid Ulster District Council (Countryside Officers)
Mountaineering Ireland
Mourne Outdoor Recreation Forum
National Outdoor Recreation Forum (NORF)
National Trust Northern Ireland
Newry, Mourne and Down District Council (Countryside Officers)

NI Agricultural Producers Association (NIAPA)
NI Association for Mental Health (Niamh)
NI Environment Link
NI Greenways
NI Heritage Fund
NI Mountain Bike Alliance
NI Protected Area Network
NI Rural Women's Network
Northern Ireland Archery Society
Northern Ireland Federation of Sub Aqua Clubs
Northern Ireland Orienteering Association
Northern Ireland Sports Forum
Northern Ireland Surfing Association
Outdoor Industry Association (NI)
Outdoor Recreation Northern Ireland (ORNI)
Ring of Gullion Outdoor Recreation Forum
Royal Yachting Association (NIC)
Rural Action
Rural Community Network
Speleological Union of Ireland
Sperrins Outdoor Recreation Forum
Sport Northern Ireland
Strangford Lough and Lecale Outdoor Recreation Forum
Sustrans
Triathlon Ulster
Ulster Branch, Irish Amateur Rowing Union
Ulster Farmers Union (UFU)
Ulster Federation of Rambling Clubs
Ulster Gliding Club
Ulster Hang Gliding and Paragliding Club
Young Farmers' Clubs of Ulster