**Access to the Countryside – The legal position in Northern Ireland**

**Preliminary Note**

This document contains advice on questions that landowners and the general public may ask with regard to the countryside and its use for recreational purposes.

Legislation relating to the countryside is complicated and it is recommended that legal advice is sought with regard to specific issues where there may be any possibility of criminal or civil action.

**Access to the Countryside**

1. Generally speaking, public access is restricted to:
2. areas of land which are in public ownership and to which the public are invited to use,
3. public rights of way, or

c) where the public have the landowner’s permission to visit.

In some areas of Northern Ireland, there is *de facto* access to open land. This means that the landowners tolerate access but, irrespective of the historic use of the land, there is no legal basis to the situation.

1. District councils can give information on specific legal matters and advice to people who are seeking walking opportunities in the countryside. [Outdoor Recreation NI](http://www.outdoorrecreationni.com/) provide general information on all forms of outdoor recreation.
2. The [Ulster Federation of Rambling Clubs](http://www.ufrc-online.co.uk/) can provide general advice and information about walking clubs.

**Permissive Paths**

1. A permissive path is not a public right of way but a route which the landowner has given permission for people to use. Most paths in Country Parks and over National Trust land are permissive. So too are some paths which district councils have negotiated with private landowners. These agreements may include for insurance and maintenance by the district council.

A permissive path may only be used by the public under the terms and conditions agreed by the landowner. Most permissive paths are only open to walkers.

**Public Rights of Way**

1. Anybody can use a public right of way that is:‑

* a public footpath - on foot only
* a bridleway - on foot or on horseback (but not bicycle)
* a carriageway – on foot, on horseback, on a bicycle or in a vehicle (subject to any Roads Service legislation)

1. When using a public right of way, anybody can take with them a ‘natural accompaniment’, for example, a dog, a pram or a buggy. A dog may only be brought on to a public right of way in accordance with the relevant legislation. A public right of way only confers a right of passage, i.e. a right to pass and repass along a defined route. However, walkers can stop to admire the view or consume food provided they stay on the public right of way and do not cause an obstruction. There is no right to park a car, pitch a tent or light a fire, without the landowner’s permission.
2. A landowner can apply to a district council for an order diverting or extinguishing a public right of way. In considering whether or not this will be done, the district council must follow a detailed procedure laid down in the [Access to the Countryside (Northern Ireland) Order 1983](http://www.doeni.gov.uk/niea/print/access_countryside1983.pdf). Private rights of way are unaffected by any assertion of a public rights of way or changes to its status.
3. An occupier of land can apply to a district council to seek a temporary diversion to a public right of way, located on their land, in the interests of good farming or forestry.
4. Landowners retain ownership of the land over which a public right of way passes, but the owner of a public right of way has no obligation to keep the route in a suitable condition for the public to use. The duty of care of the owner of a public right of way is also very limited. A district council’s duty is confined to protecting public rights of way, keeping them open and free from obstruction.
5. The width of the right of way should be whatever width was dedicated to the public. In many cases, however, the proper width will be a matter of what has been past practice over that particular route.
6. Anybody can usually find out if a route is an asserted public right of way by consulting the appropriate district council.

**Who is responsible for rights of way?**

1. All questions referring to public rights of way should be referred to the appropriate district council.

**Horses and bicycles on rights of way**

1. Horse riders have a right to use bridleways but not public footpaths (which are public right of ways for pedestrians only).
2. Cyclists can be physically prevented from using a pedestrian right of way or bridleway by a barrier or a locked gate, provided proper provision is made for walkers, for example, a stile.

**Cars, motorcycles and other motorised vehicles on rights of way**

1. No person is allowed to drive a motorised vehicle on a public footpath or bridleway without the landowner’s permission.

**Obstructions on rights of way**

1. An obstruction of a right of way is anything which interferes with the right to proceed along it, for example, a barbed wire fence across a footpath. A district council has specific powers to institute proceedings to have obstructions removed.

**Closure or diversion of a right of way**

1. A landowner cannot usually close or divert a right of way. Only a district council or certain government departments can do this.
2. Routes are normally closed or diverted by means of public path orders made by district councils. The council must follow procedures laid down in the [Access to the Countryside (Northern Ireland) Order 1983](http://www.doeni.gov.uk/niea/print/access_countryside1983.pdf) and there is a duty to advertise the contents of any public path order.
3. Objections to public path orders must be made in writing to the appropriate district council. If the district council cannot resolve objections, they must be referred to the Department of the Environment. The Department may then arrange for a public local inquiry to be held to hear arguments for and against the public path order.

A guidance booklet for persons attending public local inquiries relating to public path orders is available from Niall McAleenan, Outdoor Recreation Officer, NIEA (details at end of this document).

**Misleading Notices**

1. It is an offence for a person to place or maintain on a public right of way a notice containing a false or misleading statement likely to deter people from using the right of way.

**Access to Open Countryside**

1. *Open countryside* is a statutory term which includes open land, such as: mountains, moorland, woodlands, the foreshore, etc. 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 such land. If you use such land, bear in mind that you do so only with the tolerance of the landowner. Even if people have always roamed over the land, you may still be trespassing and may be asked to leave. See ‘*de facto’* access at (1) above.

**Beaches**

1. Although many beaches are open to the public, there is no automatic public right of access. You should be aware of local by-laws and other restrictions, and also avoid crossing private land to access the seashore.

**Trespass**

1. Trespass occurs when a person goes onto someone’s land without permission or legal right, or when they do not comply with the legal conditions under which they are allowed to be there.

If you are told that you are trespassing, you should agree to leave the area immediately.

**Further Advice and Information**

1. The full text of the Access to the Countryside Order 1983 is available at <http://www.ni-environment.gov.uk/access_countryside1983.pdf>

Most of the responsibility for access to the countryside in Northern Ireland lies with district councils and local issues should be referred to the access or countryside officer at the relevant District Council. Northern Ireland Environment Agency (Tel: 028 9056 9580) and other bodies can offer advice on general countryside access matters:

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