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### 3.1 Overview

3.1.1 This chapter of the Scheme explains the process for implementing improved coastal access. The key elements are:

- Identifying coastal stretches
- Developing partnerships
- The implementation process on each stretch of coast
- Ongoing management of the England Coast Path

Each of these is considered in turn below.

### 3.2 Identifying coastal stretches

3.2.1 We divide the coast into stretches, each of which is the subject of a separate coastal access report to the Secretary of State. For each stretch we follow the implementation process outlined in section 3.4 below.

3.2.2 We discuss with access authorities<sup>17</sup> the right approach to dividing up the coast they cover, and the sequence in which each stretch within their area should be implemented. We aim to ensure that how we do this enables the establishment and commencement of rights to take place in a way that helps people to understand and enjoy the extent of the rights created – for example by choosing stretches of coast between coastal towns or other clear end points on the ground.

3.2.3 We take the following principles into account when planning the sequence of stretch implementation:

- any new stretch should normally be adjacent to a stretch which is either underway or completed;
- we should normally aim to implement improved coastal access in the whole of an access authority's area before starting work in the area of another access authority; and
- a stretch should ideally include the whole of any coastal European site<sup>18</sup>, to facilitate the assessment of our plans on these sites.

The length of stretches may therefore vary considerably according to local circumstances and considerations of operational efficiency.

3.2.4 Within these considerations we normally prioritise for early implementation stretches where we believe the local economic benefits that flow from implementation will be highest.

3.2.5 We talk to key organisations about our emerging thinking on stretch end points before finalising our decisions on this.

### 3.3 Developing partnerships

3.3.1 We work closely with access authorities throughout the implementation process described in this chapter, combining our nationally consistent approach with their detailed understanding of local circumstances.

3.3.2 Natural England has sole responsibility under section 55A of the 1949 Act for the preparation of the coastal access report itself, but we are required to consider whether it would be appropriate for the access authority to carry out any of the preliminary activity involved and where so, to take all reasonable steps to conclude an agreement with them for that purpose<sup>19</sup>.

<sup>17</sup> See entry for 'access authority' in the glossary.

<sup>18</sup> See entry for "European site" in the glossary.

<sup>19</sup> See section 55A(4) of the 1949 Act, as inserted by section 302 of the 2009 Act.

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3.3.3 The specific arrangements we put in place with individual access authorities vary according to circumstances, for example the nature or extent of the coast within their administrative boundaries, and the interest of the authority in question. Where appropriate and efficient we seek to establish joint working between authorities.

3.3.4 Schedule 20 to the 2009 Act and Part 1 of CROW provide access authorities with statutory powers to undertake relevant establishment and maintenance works once a coastal access report has been approved. We always seek to establish arrangements with access authorities for this to happen.

3.3.5 Natural England is the sole relevant authority with responsibility for giving any directions that are necessary to restrict or exclude the coastal access rights under most circumstances<sup>20</sup>. This is to ensure a coherent approach to local restrictions and exclusions in the preparation of coastal access reports.

3.3.6 Once the rights have commenced, we have the power to delegate our relevant authority role for land within the coastal margin to:

- the National Park Authority, for any area of land within a National Park; or
- the Forestry Commission, for any area of land that is wholly or predominantly woodland<sup>21</sup>.

These bodies already have corresponding functions relating to local restrictions and exclusions on other land with public access rights provided under Part 1 of CROW.

3.3.7 We will discuss with the authority concerned whether such delegation arrangements should be made or revoked.

3.3.8 While our principal partners for the implementation and subsequent management of coastal access are access authorities, we also look to develop wider partnerships with other organisations where this helps to maximise efficiency. The scope for and benefits of using such wider partnerships varies according to the circumstances on the area of coast in question.

### 3.4 The implementation process on each stretch of coast

3.4.1 Having identified in outline a new stretch on which to begin implementation, and established the relevant partnerships, we normally follow a 5 stage process based on the key steps set out in figure 7 (overleaf).

<sup>20</sup> Other bodies have powers to restrict or exclude access for the purposes of defence and national security – see section 6.6 of the Scheme.

<sup>21</sup> This delegation power is inserted in section 21(5) of CROW by article 8 of the Order.

**Figure 7**

*Overview of the implementation process*

<b>Stage 1: PREPARE</b>	<ul style="list-style-type: none"> <li>Define extent of coastal stretch, in discussion with local access authorities</li> <li>Ask key organisations about their ideas and concerns for this stretch</li> </ul>	<ul style="list-style-type: none"> <li>Initial look at any issues for key sensitive features</li> <li>Assess problems, opportunities, constraints</li> <li>Consider existing access patterns and early route options</li> </ul>
<b>Stage 2: DEVELOP</b>	<ul style="list-style-type: none"> <li>Contact owners of relevant land</li> <li>Do alignment checks on the ground</li> <li>Share our initial thinking with owners and occupiers and offer to 'walk the course' with them if they wish</li> </ul>	<ul style="list-style-type: none"> <li>Plan protection of key sensitive features</li> <li>Talk further to key interests as necessary</li> <li>Reality check our developed proposals</li> </ul>
<b>Stage 3: PROPOSE</b>	<ul style="list-style-type: none"> <li>Finalise our proposals and associated maps</li> <li>Publish them in a statutory report to the Secretary of State (SoS)</li> </ul>	<ul style="list-style-type: none"> <li>Invite any representations on our report from anyone who wishes to comment</li> <li>Invite any objections to our report from owners or occupiers of affected land</li> </ul>
<b>Stage 4: DETERMINE</b>	<ul style="list-style-type: none"> <li>Receive any representations or objections</li> <li>Forward or summarise them to the SoS together with any comments by us</li> </ul>	<ul style="list-style-type: none"> <li>Appointed person adjudicates on any objections and advises SoS</li> <li>SoS decides whether to approve our proposals, with or without modifications</li> </ul>
<b>Stage 5: OPEN</b>	<ul style="list-style-type: none"> <li>Establishment works done on approved stretch after discussion with those owners</li> <li>Any agreed restrictions or dedications implemented</li> </ul>	<ul style="list-style-type: none"> <li>Approved map published</li> <li>Order brings new public rights into effect</li> <li>England Coast Path now exists on this stretch</li> </ul>

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3.4.2 Each of these five stages is summarised in more detail below.

**Stage 1 - Prepare**

3.4.3 This first stage is about making all of our initial preparations for implementation on the stretch in question. It enables us to understand as fully as possible the main strategic issues for the stretch, such as:

- the precise extent of the stretch that makes best practical sense;
- the extent and patterns of existing access;
- the aspirations, ideas and concerns of organisations and individuals with a particular interest in the outcome;
- any key sensitive features on the stretch;
- any places where route options are likely to be particularly limited;
- the pattern of land ownership and other legal interests in land likely to be affected;
- from all of this, an overview of access problems, opportunities and constraints;
- and from this, our first thinking on options for the route.

3.4.4 In more detail, during this stage:

- we undertake initial familiarisation visits to develop an overview of the stretch, working at this stage from public places such as roads and public rights of way or access land - normally this is done in conjunction with the access authorities;
- we work with the access authorities to decide the exact extent of the stretch, as discussed in section 3.2;
- we engage initially with all of the main national and local organisations with an

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interest in the development of our proposals for this stretch (including the relevant local access forum<sup>22</sup>), and capture at whatever level of detail they want to offer their view of the strategic and detailed issues and opportunities relating to it;

- we also publicise on our website the start of work on the stretch, and provide a facility for any other interested party to submit to us their views on local issues and opportunities;
- we engage initially with our internal specialists, and with key wider interests about the extent and nature of any local environmental features or designations (including wildlife, landscape and historic or archaeological features) that may potentially be sensitive to the access proposals;
- we begin to formulate our early thinking on route options;
- we take all reasonable steps to identify owners and occupiers whose land could potentially be affected<sup>23</sup>. We also seek to identify those with sporting rights over the land concerned, using local knowledge and relevant organisations;
- at the end of this stage, we may choose to vary the detailed extent of the stretch we are working on, or even change our plans about the timing of its implementation, because of factors that have emerged from our initial analysis of the local circumstances.

### Stage 2 - Develop

3.4.5 This is the main stage for dialogue with local land owners and other legal interests in potentially affected land. We share with them any initial thinking, and ask for their views, about where the England Coast Path might go on their part of the stretch, what other land would then be subject to public access rights and what practical issues they think this might raise that would need to be addressed. In the light of this we refine our thinking, discuss it further with key organisations, and ensure that the right protection for any key sensitive features is built in from the outset.

3.4.6 In more detail, during this stage the following normally happens:

- we make initial contact with the legal interests in land that may be affected by coastal access rights;
- we explain our initial thinking and our need to visit relevant land to ground truth and refine our ideas;
- we invite them to join us if they wish when we visit the land, to discuss the best approach to take - we sometimes refer to this as 'walking the course';
- we send them (instead or in addition) a mapped summary of our emerging proposals, clearly explaining how their land would be affected by any new rights and seeking any views about this;
- in urban areas we may instead publicise one or more householder meetings that owners or occupiers of potentially affected land in the area can jointly attend to learn more about our emerging proposals and offer any views they may have;
- we hold more detailed discussions with internal specialists and relevant organisations such as local wildlife trusts and other conservation bodies as we refine our thinking about the best way to protect any key sensitive features and sites, and to discharge any relevant legal obligations in this respect - sharing our emerging analysis with them in order to help ensure we reach the right decisions about these aspects;
- as we finalise our proposals, we talk further to key local and national organisations with an interest in the stretch and consider any concerns or insights they may have;

<sup>22</sup> See entry for 'local access forum' in the glossary.

<sup>23</sup> If we have been unable to identify the owner or occupier of affected land by any other means, we may place a notice on the land asking them to contact us.

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- we further refine our proposals as appropriate, undertake any necessary reality checks on the ground, and hold final discussions with affected legal interests where needed; and
- we estimate costs of establishment of the trail and infrastructure we intend to propose, working closely with local authority partners.

3.4.7 The precise permutation and sequence of these steps may vary according to key circumstances – for example whether it is an urban or rural area, whether there is an established national trail along the coast in question, and the extent to which any key sensitive features are present.

### Stage 3 - Propose

3.4.8 At this stage we prepare our coastal access report to the Secretary of State, showing our proposals for the line of the England Coast Path on this stretch and any associated proposals about the inland boundary of the coastal margin, arrangements for positive management of public use, or any formal exclusions or restrictions that we suggest are necessary for the purposes set out in the legislation.

3.4.9 In more detail, during this stage we:

- publish our report – see outline of content in figure 9 below;
- announce the period during which:
  - anyone may make a representation about our report, and
  - owner and occupiers of affected land may submit an objection relating to particular aspects of our proposals on grounds set out in the legislation;
- post these details on our website, and notify the key interests listed in figure 8 of the opportunity and the deadline; and
- place a local advertisement to draw attention to these website details.

### Figure 8

*The persons we must notify directly when we publish a coastal access report*

- Relevant interests in affected land (i.e. the owner and any separate occupier)
- Access authorities for the area
- Local access forums for the area
- The Environment Agency and Historic Buildings and Monuments Commission (English Heritage)
- Others specified in the legislation<sup>24</sup>, namely:
  - British Association for Shooting and Conservation
  - British Mountaineering Council
  - Country Land and Business Association
  - National Farmers Union
  - Open Spaces Society
  - Ramblers Association
  - Royal Society for the Protection of Birds
  - Persons with sporting rights over affected land

As a matter of good practice, we also notify any other individuals or organisations who have already indicated to us that they wish to be contacted when the report is published.

For all of these interests, we explain their entitlement to make representations, or in appropriate cases objections, about our report.

<sup>24</sup> Schedule 1 to the Coastal Access Reports (Consideration and Modification Procedure) (England) Regulations 2010

Figure 9

Outline content of a coastal access report

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1. Maps of the proposed route (and any alternative routes) that the trail follows, drawing attention to the parts of the route that follow existing public rights of way or existing walked lines on the ground.
2. A narrative and tables to explain more about the proposed route alignment, any other options considered, any rollback proposals, any specific proposals to vary or clarify the landward boundary of the coastal margin, and any proposals for informal management or for statutory directions to restrict or exclude access.
3. An indication where possible in the report text of any substantial areas within the coastal margin that we consider are likely to be excepted land.
4. Our estimate of the costs of implementing our proposals on the ground if they are approved - including initial establishment works, ongoing path maintenance and any specific local management arrangements contemplated by the report, for example for land management or nature conservation reasons.
5. Any documentation we have compiled for the purposes of the Habitats Regulations regarding the protection of specific European sites or associated key features on the stretch.

**Stage 4 - Determine**

- 3.4.10 During this stage the Secretary of State decides whether to approve the proposals in our report in the light of any representations, any objections from affected owners or occupiers, and the Appointed Person's recommendations as to how any objections should be determined.
- 3.4.11 The detailed procedures that apply at this stage<sup>25</sup> are explained in Defra guidance at [www.gov.uk/government/publications/marine-and-coastal-access-act-2009](http://www.gov.uk/government/publications/marine-and-coastal-access-act-2009)  
In summary, the key elements are:
- we receive any objections about our report proposals, and forward these to the Secretary of State. He appoints a person to determine their admissibility and advise him in the light of separately published guidance on how any admissible objections should be determined by him. In practice the Appointed Person is an Inspector from the Planning Inspectorate;
  - we receive any representations about our report proposals, and send these to the Secretary of State either in full or in summary, according to the requirements of the legislation for the type of respondent in question. In either case we add any comments we may have; and
  - weighing all of these inputs in the light of the statutory criteria summarised in this Scheme and of the Coastal Access Duty, the Secretary of State decides whether to approve our report, with or without modifications, or to reject it.
- 3.4.12 Any person can make a representation about our report but objections may only be made by owners or occupiers of affected land. Holders of other entitlements over affected land such as easements, private access rights, rights of common or sporting rights may not object, but may make a representation.
- 3.4.13 The legislation does not allow us to amend our final report in response to objections or representations. Our comments on them may recommend that the Secretary of State should modify our proposals in a specified way in order to address some aspect of the objection or representation, or may explain why we do not think any modification is necessary.

<sup>25</sup> Under Schedule 1A to the 1949 Act, as inserted by the 2009 Act, and the Coastal Access Reports (Consideration and Modification Procedure) (England) Regulations 2010

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## Stage 5 - Open

- 3.4.14 Once approval for a coastal access report is received from the Secretary of State, preparations are made on the ground and the necessary legal paperwork is completed. The new public rights then come into force on the stretch.
- 3.4.15 In more detail, during this stage:
- the access authority typically undertakes any 'establishment works' necessary to make the trail fit for use as the England Coast Path, and to enable users of it to be clear and confident about its alignment on the ground;
  - any specific informal management measures proposed in our report to protect key sensitive features are implemented;
  - where specific restrictions or exclusions have been proposed and approved as part of our report, we give the necessary 'directions' to give legal effect to these;
  - where our report has recorded a commitment by one or more land owners to dedicate land or a path across it in the event of approval of our proposals, the necessary dedication instruments are prepared and signed;
  - we publish on our website the approved route maps reflecting the Secretary of State's determination of our proposals; and
  - a commencement order brings any new public rights of access into effect on the England Coast Path and associated spreading room on this stretch.
- 3.4.16 Before any establishment works are undertaken we ensure that any statutory consents are in place that may be required from other authorities. Any new infrastructure is discussed with the owner or occupier in advance.<sup>26</sup> In practice we will often have held preliminary discussions about these aspects when visiting the land.
- 3.4.17 The new public rights of access are brought into effect by a commencement order on each stretch of coast on a date decided by the Secretary of State. On this date:
- the existing CROW access regime over any areas of open country or registered common land that fall within the coastal margin is replaced by the coastal access regime, including the varied national restrictions (see section 2.4) and the further reduced levels of occupiers' liability (see section 4.2);
  - any existing access dedications under section 16 of CROW remain in place, but if the land is within the coastal margin it becomes subject to the coastal access regime;
  - any existing local restrictions or exclusions of prior CROW access rights cease to apply; and
  - any new directions to exclude or restrict the coastal access rights locally (to give effect to proposals in the report confirmed by the Secretary of State) take effect.
- 3.4.18 We publicise the commencement of the rights to help ensure that they are known about and understood locally, working with access authorities and others as appropriate.
- ## 3.5 Ongoing management of the England Coast Path
- 3.5.1 Once the coastal access rights are in place and operating on a stretch, there may be an ongoing need for basic maintenance of the trail and in some cases additional access management for specific purposes. The maintenance and management undertaken will reflect the nature of each section of the trail, the standards we consider should apply, the coincidence with existing maintenance responsibilities on public rights of way, and any other specific factors that are relevant.
- 3.5.2 We aim to put in place rolling agreements with access authorities to meet these

<sup>26</sup> There are relevant powers to make agreements with owners and occupiers regarding:

- the establishment and maintenance of the route – under paragraph 2 of Schedule 20 to the 2009 Act; and
- any means of access to land for the purposes of the Coastal Access Duty – under section 35 of CROW.

maintenance and management requirements. The England Coast Path is part of the family of National Trails and the wider arrangements relating to their funding and management apply to it as appropriate<sup>27</sup>.

- 3.5.3 Monitoring is also undertaken where necessary, building on existing best practice and encouraging the participation of local people and users of the trail in helping to identify and solve issues and to make improvements. In particular, specific monitoring arrangements are implemented as necessary to ensure the effectiveness of any mitigation measures put in place to prevent adverse effects on a European site (see section 4.9).
- 3.5.4 Figure 10 summarises the various changes that can be made to the specifics of coastal access provision in the light of changes that occur subsequent to commencement of the rights. These are explained in more detail elsewhere in the Scheme, where indicated.

**Figure 10**

*Procedures for changes to local coastal access provision*

Changes that can be made without submitting a variation report <sup>28</sup>	Changes that require a variation report which is approved by Secretary of State
<p>A change to the route under a 'roll back' provision in an approved report (see section 4.10)</p> <p>Varying or revoking an existing direction that restricts or excludes coastal access rights</p> <p>A new direction to restrict or exclude coastal access rights (see sections 6.6 and 6.7)</p> <p>Use of a temporary route while the 'ordinary' route is unavailable for use (see section 6.4)</p> <p>New or replacement signs or infrastructure</p>	<p>Any other change to the route that the trail follows or to an approved alternative route or optional alternative route (section 6.4)</p> <p>New use of our discretion to include additional areas of spreading room landward of the trail (see section 4.8)</p>

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<sup>27</sup> New Deal; Management of National Trails in England:

<http://publications.naturalengland.org.uk/publication/6238141?category=211280>

<sup>28</sup> A variation report is submitted to the Secretary of State by Natural England under section 55(1) of the 1949 Act