

# The provision of access for outdoor recreation in Northern Ireland

## Key Stakeholder Consultation

27<sup>th</sup> January – 29<sup>th</sup> March 2021

## Response from Mountaineering Ireland



Department of  
**Agriculture, Environment  
and Rural Affairs**  
[www.daera-ni.gov.uk](http://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](mailto: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 **29<sup>th</sup> 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](mailto: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.)	_____
Forename or initials	Helen _____
Surname	Lawless _____
Full postal address	Mountaineering Ireland, Irish Sport HQ, National Sports Campus, Blanchardstown, Dublin 15 _____
Postcode	D15 DY62 _____
Email address	helen@mountaineering.ie _____

### Are you responding as an:

**a) Individual** YES / 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 / NO

If "YES", does your organisation / group :

- Participate in, or organise, outdoor recreational activities? **YES / NO**  
 Hillwalking, rock climbing, bouldering, trail-walking and all  
 Please identify which activities other aspects of mountaineering
  
- Own, or manage, land which the public may wish to use for outdoor recreation? **YES / NO**  
 Please identify the type of  
 land (eg mountain, lowland  
 farmland, woodland etc.) Mountaineering Ireland owns the Hot Rock climbing wall at
  
- Other (please state) Tollymore National Outdoor Centre

**Organisation / Group Details:**

- Organisation/Group name Mountaineering Ireland
- Full postal address Irish Sport HQ, National Sports Campus,  
Blanchardstown, Dublin 15
- Postcode D15 DY62
- Contact name Helen Lawless
- Contact email helen@mountaineering.ie
  
- Which category best describes your organisation (select one item)
  - Community organisation
  - Third sector / equality organisation
  - Landowner / land manager
  - Private sector organisation
  - Representative body for professionals
  - Local government
  - Community Planning Partnership
  - Public Body, including Executive Agencies, NDPBs, NHS etc.
  - Academic or Research Institute
  - Other (please state) National Governing Body of Sport (non-profit)

**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?

**YES / NO**

Please feel free to comment below

Mountaineering Ireland is firmly of the view that **there is not sufficient off-road access** to the natural environment to meet the outdoor recreation needs of the people of Northern Ireland.

It may be helpful at the outset to clarify **Mountaineering Ireland's position** in relation to access for recreation. The policy of Mountaineering Ireland is that we are actively seeking reasonable access for responsible users. Our aim is to have:

- open, unrestricted access on foot across hills, mountains and coastal areas, where there are either minimal or no active farming practices apart from rough grazing;

- a network of paths allowing for access to the above areas, which could be permissive paths, leased paths or public rights of way.

It may be helpful too to clarify what we understand to be '**responsible recreation**'. From Mountaineering Ireland's this means that participants plan their activity, have the necessary skills and equipment, take responsibility for their actions, and act with respect for other people and care for the natural environment.

As stated in the consultation paper, public access to land in Northern Ireland is **more restricted** than in other parts of the United Kingdom. Much access to the natural environment for recreation in Northern Ireland depends on **public land**, notably Forest Service NI forests, country parks and council owned amenity areas, and on informal access in upland and coastal areas. The **lack of clarity and certainty** regarding access for recreation across much of Northern Ireland contrasts with the rest of the UK. Unlike other regions, Northern Ireland does not possess an extensive network of public rights of way. Neither is there any 'right to roam' provision.

The lack of sufficient access to the natural environment is, ironically, most pronounced in **rural areas**. Those living in cities and towns are likely to have a green space within walking distance, although this space may be manicured and not all that natural. People living in rural areas normally have to drive for some distance to reach accessible green space. This is evident from the volume of walkers seen braving the country roads in order to experience the outdoors and undertake exercise.

As mentioned above **FSNI forests are the most widely accessible land** across Northern Ireland. However, much of this access is within dark and monotonous plantations, and along wide gravel tracks which offer little in the way of views, heritage, biodiversity or history. FSNI forests offer particularly good opportunities for activities like trail running, gravel biking or mountain biking where effort, endurance, and speed are the focus, but for those wishing to spot wildlife, learn about the landscape or seeking enrichment, they offer a low-quality recreation experience. Many of our scenic inland areas such as the Antrim Glens, the Sperrins and west Fermanagh have ample forest tracks which people can explore, but very few routes which showcase the landscape in its true form and allow people to access the open country.



The main quality walking environments in Northern Ireland are usually situated on upland moorland, along rivers and in coastal areas. These are virtually all **accessed informally**. Mountaineering Ireland acknowledges and appreciates the goodwill and tolerance of landowners who facilitate recreation activity, often without any assistance from councils or other bodies. While many landowners in **upland areas** have traditionally allowed informal access, this goodwill and access could easily be lost, for example due to inappropriate behaviour by one group or individual, through ever increasing user numbers, or simply because the landowner decides they no longer wish to allow access.

The lack of clarity and certainty regarding access to upland areas means that many people avoid areas where there has been any reported difficulty (e.g. the Sperrins and the Antrim Glens) out of **fear of confrontation**. This in turn focuses greater numbers towards those upland areas where access is known to be available.

This situation has been accentuated during the Covid pandemic, with hugely increased numbers seeking access to the natural environment. People have flocked to **honeypot sites**, such as Divis Mountain, parts of the Mourne, the Antrim coast and Cuilcagh in Fermanagh, frequently causing congestion and parking problems.

There is need for **well-designed legislation** which balances the reasonable expectation of the public to have access to hills and countryside with effective protections for landowners, thus expanding the opportunities for people to engage in **responsible** outdoor recreation in Northern Ireland and improving the quality of the experiences people enjoy. There is also need for more active management of recreation at **busy sites** and investment to protect and restore fragile natural environments which have been impacted by increased numbers, especially during the current pandemic.

As noted in section 1.1 above research by Outdoor Recreation NI in summer 2020 showed that 51% of respondents expect to spend more of their free time outdoors after Covid-19 than they did before. In addition to enhancing human health and wellbeing, greater demand for outdoor recreation experiences will support further growth in the commercial provision of outdoor activities and related services. **Political awareness of the multiple benefits that flow from outdoor recreation activities has never been greater**, with five different government Ministers covering health, environment, education, the economy, sport and community development participating in Outdoor Recreation NI's

annual conference on 3<sup>rd</sup> March 2021. This is the ideal time to bring forward legislative proposals to support quality outdoor recreation opportunities for this and future generations, in a way that removes any perceived burden from landowners, enables appropriate management and respects our natural environment.

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

**YES / NO**

Please feel free to comment below

It is Mountaineering Ireland's position that there is little to be gained for outdoor recreation through better publicising Northern Ireland's existing small right of way provision, or by asserting new ones. **Most existing public rights of way are in urban areas**, and are not relevant to access for outdoor recreation. For example, in the Mourne Mountains, Northern Ireland's busiest hillwalking area, access relies heavily on informal, yet long-standing *de facto* access to trustee grazing areas, as well as Northern Ireland Water and National Trust lands.

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?

Fear of **liability** seems to be the greatest barrier to the development of recreation on both public and privately-owned land, this should be addressed through the new Outdoor Recreation Bill which is proposed (see Q12 below), in a way which ensures that landowners are not exposed to potential claims should someone be injured while engaged in recreational activity on their land. The deliberate taking on and managing of risk in challenging environments is an essential part of many outdoor recreation activities, but participants accept that the **responsibility for their own safety lies with themselves** and do not expect landowners or managers to be liable for decisions they make. It is important that any legislative measures or management structures recognise the *volenti non fit injuria* principle.

Landowners may be concerned about disturbance of **livestock**, especially by dogs, or hindrance of farming activities through damage to **fences**, or irresponsible **parking** blocking gateways or narrow roads. These issues can be addressed, or at least mitigated, through tried and tested **solutions** such as the provision of stiles or self-closing gates designated parking areas, clear information for the public and the exclusion of dogs from certain areas.

This requires resources, including ongoing education and public awareness, and a lot of work with landowners, but the return in terms of **positive experiences** for both landowners and the public would be significant. In this regard, it is interesting to note the recent research by Outdoor Recreation NI which showed that every £1 invested in the Darkley Community Trail generated £10 in social value over the lifespan of the trail.

There are also potential issues around **erosion**, and disturbance of wildlife. Many of Northern Ireland's scenic areas are also our most sensitive environments, and so access can inadvertently lead to disturbance of breeding birds, or erosion of peatland, montane, grassland, or coastal habitats. This potential issue should be carefully considered when developing core path networks and other recreation opportunities, particularly in areas of designated or priority habitats/species. In relation to upland areas, the Helping the Hills Network exists to support the development of good practice in upland path management on the island of Ireland ([www.helpingthehills.ie](http://www.helpingthehills.ie)).

Concern about **littering** is also raised by landowners, a concern which has been validated during the Covid-19 pandemic with the remains of irresponsible campsites gaining public attention in many places. General littering also increased, including items such as masks and gloves. Covid-19 brought increased numbers to the outdoors, exacerbating all the issues referred to above and in particular resulting in traffic congestion along narrow rural roads.

An issue which comes up frequently is that trails which have been developed under projects with a lifespan of a few years fall into disrepair after the project ends. In such situations the district council should have ultimate responsibility for ensuring that there is regular contact with the landowners(s) and that all infrastructure is maintained to an appropriate standard, and that the route is kept litter-free. Arrangements for the **ongoing maintenance** of recreation facilities should be considered at project planning stage, it is an inescapable, yet often overlooked, fact that maintenance of recreation infrastructure is essential and that it requires both financial and human resources.

The vast majority of people who are seeking access to the natural environment for recreation will behave in a responsible manner. It is Mountaineering Ireland's view that there should be few difficulties for the landowner if public access is properly managed. It is important to recognise that access for activities such as hillwalking, rock climbing and caving can be **managed without the development of trails**. In some situations, the addition of infrastructure can make the place less attractive and take from the quality of people's recreation experiences.

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?

Firstly, landowners should have **freedom from any potential liability** for injuries sustained by recreational users on their land. The fear of being sued and associated costs is real. even though there are few if any successful claims. The mechanisms need to divert any potential claims to a statutory body or overarching insurance scheme so the landowners (unless deliberately setting out to harm visitors) are protected from any impact.

Access which is agreed and properly managed would **remove the nuisance** which recreation causes for some landowners; with parking space being provided, defined routes for people to follow around farmyards and houses, stiles where fences have to be crossed, and more responsible behaviour by recreational users. The access arrangement should be reviewed annually with the landowner. There should be a point of contact for landowners if any issues arise, and the option to withdraw access if those issues cannot be resolved.

Landowners would also be encouraged to provide access if there was some **remuneration** associated with it, through a recreation measure in farm payment schemes, the option to be paid for maintenance of recreation infrastructure, or the opportunity to earn income through the provision of services or facilities for recreational users.

Acknowledging those farmers who are favourable towards outdoor recreation, and who have embraced the opportunity this presents, can help build the confidence of other landowners. In this regard we want to mention the example

of **Fair Head**, where Sean McBride and his family welcome large numbers of climbers and other visitors to the extensive and iconic cliffs that form part of their farm.

It is recognised however, that for some private landowners no amount of money or assurance surrounding occupiers' liability will ever be enough to encourage them to grant access for recreation.

### 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 / NO**

Please feel free to comment below

While, most public land in Northern Ireland is quite widely accessible, there is relatively little of it to start with as **a smaller percentage of Northern Ireland's land area is publicly owned** than in Scotland, Wales, England or the Republic of Ireland. As a result, much activity is focused towards certain honeypot areas resulting in congestion and management issues.

From Mountaineering Ireland's perspective, for both hillwalking and rock climbing, one of the key areas of public land is the **Northern Ireland Water** property within the Mourne Wall. While there is a long-standing tradition of recreation activity in this area, the public currently has no legal right to do so.

Most of the public land which is legally available for outdoor recreation is **FSNI forests**, which provide a low-quality recreation experience in most cases. While most public land in Northern Ireland is in rural areas, there are public land areas around towns where there are currently no arrangements for recreational access. On the plus side, NIEA's Peatlands Park was mentioned by my members as a good example, in terms of the quality of its trails and also habitat management.

In examining the provision of access for outdoor recreation in Northern Ireland it must be recognised that with just over 6% of the total land area in public ownership, that the expansion of opportunities for people to engage in outdoor recreation must **include a greater focus on privately owned land**.

This is particularly important in **open, unenclosed mountain areas** such as those parts of the Mourne controlled by groups of Trustees or private individuals. Whereas linear access routes can be relatively easily identified through such arrangements as permissive path agreements, open access to unenclosed upland areas is of particular importance to our members and the majority of hillwalkers and climbers.

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

There should be a **statutory right of access to all publicly owned land** for responsible recreation unless there is a stated reason not to allow it (e.g. security or operational reasons). This would demonstrate Government's commitment to outdoor recreation, provide a positive example to private landowners, and hopefully encourage more private landowners to allow recreation activity.

Public bodies should be required to adopt a strategic approach to managing and **using their land for the public good**. We would strongly recommend public bodies work in partnership with district councils, AONB management bodies, local community groups, recreational user groups and environmental NGOs to identify possible improvements. Such improvements might include developing trails to take advantage of viewpoints, opening up access routes to upland areas, providing car parking and quality visitor information. Consideration should also be given to the creation of trails linking forests and other recreation areas together to make longer distance routes.

Forest Service NI has entered into **arrangements with councils** for the management of outdoor recreation in certain FSNI forests. This has brought positive developments in those forests and provides a model for other public landowners.

In relation to FSNI sites in particular, **restructuring of the forests**, by planting more native trees of local provenance, and by also changing to continuous cover forestry in more areas, would further improve the quality of people's recreation experiences.

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?

Matters related to outdoor recreation currently straddle many separate government departments. This legislative review presents the opportunity to clarify responsibilities, or at least put legislative messages in place to support better cross-sectoral cooperation.

Permitting greater public access to public lands will inevitably, and hopefully, result in **increasing recreation use of public land, this will likely lead to:**

- Increased recognition by the public that accessible, high quality recreational experiences should not be the exception and thus greater pressure being applied to public land managers to deliver;
- A need for public land managers to dedicate increased resources to outdoor recreation management and to enhance recreation management skills and knowledge within their organisation;
- A need for budgets to be realigned to reflect the above.

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

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

Implementing the **solutions proposed below** may require changes in departmental structures or functions, as well a legal capability to prescribe solutions from the Executive. These should be considered and enabled as part of an Outdoor Recreation Bill.

- Public land managers should be obliged to prepare **Outdoor Recreation plans for their land and water assets**.
- The Executive Office should consider establishing a **cross-cutting Outdoor Recreation Unit** to technically support the production and delivery of outdoor recreation plans which are coordinated with the NI Outdoor Recreation Strategy and aligned with other relevant government strategies.
- Further support should be provided for the cross-cutting **Statutory Outdoor Recreation Group**.
- **Better use of support networks** developing and sharing good practice within the outdoor recreation sector, such as the Visitor Safety Group, the Helping the Hills Network and the Outdoor Recreation Network.
- Mechanisms to enable the **sharing of resources** such as skilled labour and equipment across public land managers, breaking the siloed enclosures that currently appear to exist, making for higher quality and more consistent recreation experiences, as well as achieving better value for the public money that is invested in outdoor recreation.
- The use of **outcomes-based budgeting** which would allow the economic benefits emanating from increased outdoor recreation to be accounted for.

## 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

Most access issues which are brought to Mountaineering Ireland's attention relate to the informal recreational use of privately-owned land and particularly the landowner's **duty of care** towards recreational users.

Legislation should also make clear the **responsibility of recreational users** for their own safety. Scotland's Land Reform Act (2003) provides a useful model in terms of personal responsibility. In Scotland people can go on to most land to enjoy the outdoors – as long as they behave responsibly.

This responsibility is based on three key principles:

- Respect for the interests of others.
- Care for the environment.
- Taking responsibility for your own actions.

The responsibilities of recreational users, and also landowners, are set out in detail in the Scottish Outdoor Access Code (<https://www.outdooraccess-scotland.scot/>).

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.

In relation to the Access to the Countryside (NI) Order 1983 the **main focus has always been on Public Rights of Way**. Consequently, other mechanisms within the 1983 Order have scarcely been used, particularly the provision for Access to Open Country or Public Path Creation Orders.

From our knowledge and experience, the process of **asserting rights of way** can be lengthy, divisive and costly, particularly if the assertion is disputed by a landowner. If resolving a dispute involves a court case then it is likely to be expensive to the point of discouraging a council from pursuing such action.

In relation to the Occupiers' Liability legislation and situations of informal or *de facto* access, there continues to be a **lack of clarity in relation to the duty of care** owed to people entering into land without express permission. Questions also arise in relation to activities such as sport climbing, where the placement of fixed equipment that users rely on for safety could create a liability for the landowner unless that is covered by another party.

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.

A simpler, less costly process for **dispute resolution** needs to be found which avoids court action. We suggest something more akin to a Planning or Water Appeal or the Wayleave procedures contained in the Electricity (NI) Order 1992. There is also need for a better statutory basis for permissive paths.

Mountaineering Ireland supports the proposals for a new Outdoor Recreation Bill, which should include measures to ensure that **landowners are not exposed to potential claims** should someone be injured while engaged in recreational activity on their land. And, where there is recreation infrastructure in place on privately-owned land as part of a community trail or other agreed access, the landowner should be **indemnified through the district council**. We note that it is often the fear of being sued (even through it may not come to a successful claim) that is a significant factor in landowners refusing access, so the proposals must ensure that all claims are diverted away from landowners (unless they are deliberately setting out to cause harm to visitors).

These measures should be supported by training for council officials in relation to existing and/or new legislation, the production of **guidance material** and ongoing awareness activity with landowners and also with recreational users to make them aware of their responsibilities.

The active development of a **culture of responsibility** amongst all those using the outdoors for recreation would help address issues raised by landowners and land managers. Mountaineering Ireland welcomes **'The Right Side of Outside'** campaign run by Outdoor Recreation NI, supported by the Ulster Farmers Union, Sport NI, NORF, NIEA and Mourne Mountain Rescue Team. This provides a basis for collaborative effort to develop and promote responsible recreation which could be supported through an Outdoor Recreation Bill.

### 5.3 Opportunities

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

Mountaineering Ireland's position is that this would be best achieved through a **new Outdoor Recreation Bill** rather than seeking to amend the 1983 Access to the Countryside Order. The Bill would enable a once in a generation opportunity to provide a comprehensive legislative framework to support the development of outdoor recreation in Northern Ireland.

Mountaineering Ireland supports NORF's position that the Bill should make clear that:

- access to the countryside for the purpose of recreation must be exercised responsibly and sustainably, and
- access to private land should principally be through agreement of landowners.

Mountaineering Ireland believes that a new Outdoor Recreation Bill for Northern Ireland **should include the following**:

- Preamble noting the benefits of outdoor recreation, including the value of adventurous experiences, setting out key considerations and the **primary purpose of the Bill** - *To provide expanded opportunities for people to engage in outdoor recreation activities and to improve the quality of the experiences people enjoy, in a way that optimises the many benefits of this activity, whilst ensuring that measures are in place to minimise adverse impacts on landowners, the natural environment and host communities;*
- **Clarify responsibility for implementation** of the Bill, including provision of guidance to councils and other relevant bodies, and the coordination of cross-departmental activity;
- Clarification and limitation on the **duty of care** owed by landowners and occupiers to those who use their land for recreational purposes, whether within the framework of an access agreement or informally;
- Provision that all access for recreation under the Bill should be contingent on **responsible behaviour** by users (what is meant by 'responsible' is important and may need to be elaborated in supporting documentation);
- A statutory **right of access on publicly owned land** apart from exemptions for operational, public safety and security reasons;
- An obligation on Councils to prepare and implement an **Outdoor Recreation Plan** and to develop and maintain a **Core Path Network**;
- A requirement for Councils to create **Outdoor Recreation Areas** (see Q18 below);

- Relevant clauses enabling Councils to enter into **permissive path agreements** (currently under Recreation & Youth Services Order, 1986) and public path creation orders;
- Provision for the assertion, protection and maintenance of **public rights of way**, including a new dispute resolution mechanism;
- An obligation on Northern Ireland Statistics and Research Agency (NISRA) to **collect outdoor recreation data**.

### 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 / NO

Please feel free to comment below

Mountaineering Ireland believes that Core Path Networks have an important part to play in expanding opportunities to engage in outdoor recreation in Northern Ireland. The Core Path Network should form a major element of each council's Outdoor Recreation Plan.

**Each district council should be mandated and resourced to produce a Core Path Network** in order to provide quality outdoor recreation experiences within its area – meeting the needs of walkers, horse-riders, cyclists and those seeking access to water for water-based recreation activities. In addition to long and medium distance routes, greenways and blueways, All Core Path Networks should also include a network of community trails.

The council should take responsibility for ensuring that routes within the Core Path Network are mapped, signed, monitored and maintained, though work on the ground might be delegated to other organisations.

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

The public **benefits are potentially very significant**, Core Path Networks will open up outdoor recreation experiences to new participants and enhance the experiences of those already participating.

The *Outdoor Recreation: People, Nature and Health* research report recently published by Outdoor Recreation NI (link below) highlighted the clear **connection between enjoying outdoor spaces and good mental and physical health** with 73% of respondents stating the primary motivation for visiting the outdoors was ‘to get some exercise’ and/or ‘for health and fitness’. In addition, 65% felt calm and relaxed and 32% felt closer to nature following visits to the outdoors.

The same study found however that these important **benefits are not being realised equally**, with only 50% of those from Northern Ireland’s most deprived areas visiting the outdoors at least once a week. This is in stark contrast to the national average of 70% which rises to 82% in the most affluent areas. Core Path Networks should be a key tool in working to eliminate that social gradient in outdoor recreation participation.

Other advantages and uses of Core Path Networks include:

- Greater public awareness of opportunities for recreation in the area;
- Strengthens the area’s tourism offering;
- Core Path Networks should showcase local heritage
- Enhancing local and regional biodiversity should be an objective in the development of Core Path Networks.
- Annual increase in % of journeys made by walking / cycling (current Programme for Government indicator)

**Community trails should be a key component in Core Path Networks.**

Community trails would provide safe, off-road opportunities for communities to enjoy outdoor recreation and connect with nature close to where they live. Community trails can be used for both recreation and active travel, bringing social, health and wellbeing benefits, increasing engagement with the natural environment and reducing carbon emissions as people do not need to travel to go for a walk. Newry Mourne and Down District Council already has a council-wide community trail plan in place, developed by Outdoor Recreation NI, this provides a model for other councils.

Post-Brexit **farm payment schemes** should include a new stimulus to encourage and reward farmers who provide public access and facilities for recreation, thus showing

public benefit from public money. Core Path Networks would provide a means of assessing the value and importance of any such proposals put forward by farmers and landowners.

*Outdoor Recreation: People, Nature and Health* research report -  
<http://www.outdoorrecreationni.com/wp-content/uploads/2021/03/People-Nature-and-Health-NI-March-2021.pdf>



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

Core Path Networks will be made up of routes that are on **public and privately owned land**. Undoubtedly the greater barrier to achieving a Core Path Network across all council areas will be securing landowner agreement.

The **liability issue needs to be addressed** before approaching landowners, through new legislation and councils indemnifying landowners.

Outdoor Recreation NI's experience in the development of community trails provides **valuable learning** to inform the development of Core Path Networks.

The development of trail networks, principally on the basis of landowner agreement, is **time consuming and often results in no tangible outcome** on the ground as some landowners will not give permission for a trail on their land.

When developing Core Path Networks councils will need to **plan their consultation carefully**, with a clear purpose, relevant expertise and an understanding of potential issues.

Adopting a community-centred approach is likely to be more fruitful than top-down development. There should **be engagement with the community**, and landowners as part of that community, at an early stage in the development of routes, in order to avoid potential difficulties at a later stage. Selecting the right people to engage with landowners and communities will be important. The development of the Arney route in Fermanagh, part of the Cuilcagh to Cleenish project provides a positive example of this approach.

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

Clarity needs to be provided around **Occupiers Liability** and the matter addressed so that farmers who engage with public access initiatives are protected. It is Mountaineering Ireland's recommendation that this be addressed through the proposed Outdoor Recreation Bill. In addition, councils should provide indemnity for

routes which have been identified within its Core Path Network – particularly those which require a permissive path agreement.

There may be scope for landowners to be **paid for carrying out maintenance work** on trails or other infrastructure that supports recreational enjoyment of privately-owned land. The Walks Scheme in place in the Republic of Ireland provides a relevant example of how such an arrangement can work, including work plans and inspection. It should be noted that the Walks Scheme was introduced to address the maintenance of pre-existing routes, rather than to develop a trail network:

<https://www.gov.ie/en/policy-information/942b4b-the-walks-scheme-and-rural-recreation-officers/>

With the evolution of farm payment schemes post-Brexit there is potential for landowners to be rewarded for the delivery of environmental services (for example water quality, carbon sequestration etc). **Recreation is becoming a significant land use** in many locations and is also recognised as an ecosystem service. It should therefore be an option within any future farm payments scheme introduced by DAERA.

It is important however that farmers should not receive a payment simply for allowing recreational access, that would create an awkward precedent and cause difficulty with the many landowners who have long facilitated recreational access. Any farm payment related to recreational access should be linked to **physical actions** (e.g. stile construction and maintenance, water management on paths, demarcation of route by hedge-planting etc), and/or **engagement actions** (e.g. hosting farm visits for walking clubs or school groups, other face-to-face engagement with recreational users, attending training in path maintenance skills).

If there is **abuse of a path** or farmer's land by the public, and a reasonable solution cannot be found, the farmer should have the option of restricting or removing access, and should also receive compensation for expenses, losses or any inconveniences that arise from providing public access.

There may be **opposition** from some farmer representative groups to the development of Core Path Networks. Working with groups such as the Nature Friendly Farming Network, the Farming and Wildlife Advisory Group (FWAG), and Linking Environment and Farming (LEAF) might be helpful in addressing these concerns and developing initial examples.

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

As stated above, we envisage Core Path Networks would incorporate not only community trails but the **full spectrum of recreational trails in the area**, including Greenways and Blueways. For the most part routes in the network will be for walking, as this is the most popular recreation activity, but they could also cater for horse-riders, cyclists and those seeking access to water, for example for swimming, angling, kayaking and canoeing.

The development of Core Path Networks should have a focus on providing **quality recreation experiences**. Routes in the network could be looped or linear and may vary from just a couple of miles to multi-day hiking or cycling routes. Routes should be waymarked, and as far as possible walking routes should be off-road. Mountaineering Ireland does not envisage that hillwalking routes, even where there are managed paths in place to address erosion, would form part of a Core Path Network (hillwalking is addressed under Q18).

Routes and trails in the countryside should be as natural as possible, avoiding urban-style infrastructure. Conversely, trails close to centres of population might be surfaced to be suitable for use by wheelchairs and buggies. The **Visitor Safety in the Countryside Risk Control Spectrum** provides a widely-used framework for adjusting the level of management intervention based on visitor use, location and terrain (<https://www.visitorsafety.group/>).

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

While Core Path Networks should play an important part in expanding opportunities to engage in outdoor recreation in Northern Ireland, it is **neither necessary nor desirable for all access to be trail-based**. In fact, few outdoor recreation experiences on our beaches, parks and waterways are confined to distinct lines on a map and it would be remiss of any new arrangements not to recognise this.

Hillwalking for example is about the exploration of open mountain landscapes, it is in essence a spatial activity rather than one which relies on defined or marked trails. A great many individual farmers and other landowners **currently allow informal access** to Northern Ireland's uplands, coastal areas and open spaces (including

moorland and woodland). The development of an **Outdoor Recreation Bill** should provide a framework within which more adventurous experiences are encouraged, and within which landowners are respected and protected.

Part III of the 1983 Access Order makes provision to create public Access to Open Country. To the best of our knowledge, no **Access to Open Country** has been established in any form by any local authority in the 38 years since that legislation was introduced. In the legislation 'open country' is defined as land which appears to consist 'wholly or predominantly of mountain, moor, heath, hill, woodland, cliff, foreshore, marsh, bog or waterway.'

Recognising the public desire for free movement on the hills and in other areas of rough grazing land, it is Mountaineering Ireland's assertion that a new Outdoor Recreation Bill should include an obligation on Councils (and possibly also AONB management bodies) to make agreements covering areas of open country, described as '**Outdoor Recreation Areas**', in hill, mountain, woodland and coastal areas, where there are either minimal or no active farming practices apart from rough grazing. Provision should be included to create Outdoor Recreation Areas based on an agreement with landowners.

Outdoor Recreation Areas will naturally, depending on the nature of the terrain, provide opportunities for a **diversity of activities** (including mountain-running, cycling, rock climbing and bouldering, winter mountaineering, caving, kayaking and open water swimming). This diversity brings with it a spectrum of means through which the environment is accessed and enjoyed. For example, in upland areas there are likely to be unmarked paths and access routes of varying size and popularity. Some may see carry less than a hundred users per year, whilst others could be used by many thousands of people. More formal trails that form part of a Core Path Network may also run through an Outdoor Recreation Area at a lower level. For some activities a usage map could appear quite erratic in nature such as orienteering or rock climbing, whilst for others e.g bird watching, it would appear quite stationary. These and other observations support an approach that would confer area-wide arrangements benefiting both provision and management.

The **support mechanisms** for Outdoor Recreation Areas should include:

- **Indemnity arrangement** to protect landowners against any claims from recreational users (other than where the landowner has wilfully cause harm to the injured party);
- **Erosion control** measures and provision of necessary infrastructure to facilitate recreational activity (e.g. parking areas and stiles);

- Signage at access points to make clear that **recreational users** should respect the goodwill of landowners, care for the environment and should have the skills and equipment to take responsibility for their own safety;
- Provision for landowners to be **paid for agreed works** to maintain access routes and recreation infrastructure;
- Provision for landowners to be paid or earn an income from providing parking or from **engagement actions** related to the Outdoor Recreation Area (e.g. hosting farm visits, leading heritage walks, participating in meetings about the project, allowing appropriate events etc);
- A person for landowners to contact if any issues arise from recreational activity on private land;
- A mechanism for **dispute resolution** (without having to resort to the courts) where there is disagreement in relation to land included in an Outdoor Recreation Area or proposed for inclusion in such an area (we understand there may be similar calls for a non-judicial system relating to agricultural payments and also environmental protection and thus a DAERA or even Government-wide solution may be useful here).

*Note: the above proposal is similar to the Mountain Access Area model which is currently being reviewed and expanded through Comhairle na Tuaithe, the national advisory body on outdoor recreation in the Republic of Ireland. From the outdoor user's perspective, commonality in approach would be helpful.*

It is important to recognise the **value of these areas for informal adventure activities** in undefined locations with no particular infrastructure provision. The deliberate taking on and **managing of risk is an essential part of many activities** such as rock climbing, snow and ice climbing and landowners and managers should not feel obliged to control or manage such activities. That risk lies with the participants and the *volenti non fit injuria* principle in law applies.

It has also become increasingly clear that **AONB management is under resourced and suffers from a lack of statutory recognition**. Given that outdoor recreation is a rapidly growing percentage of major human activity occurring in AONBs Mountaineering Ireland supports this review also considering how our AONBs can be better supported.

Within the context of natural capital, public goods and other such landscape management discussions it would be helpful if **recreation is recognised as a valid land use** and thus becomes integrated into associated policy and operation

frameworks, rather than left as an add on or after thought as perhaps is currently the case.

The current draft **Programme for Government** has at its heart the objective of increasing the 'wellbeing' of all our citizens. The Covid-19 pandemic has highlighted the value of outdoor recreation to the mental and physical wellbeing of our citizens. This review of the provision of access for outdoor recreation in Northern Ireland presents a **once in a generation opportunity** to act with ambition and determination to provide quality outdoor recreation opportunities for this and future generations, in a way that protects landowners and respects our natural environment. Wide engagement with the public consultation that forms part of the review will be key to securing political backing for the proposed Outdoor Recreation Bill.

Mountaineering Ireland encourages DAERA in developing the **public consultation** survey to **focus on the opportunities** this review presents - the issues and experiences people have had, and how those experiences could be made better, rather than looking at the legislative framework that underpins people's enjoyment of the outdoors. The benefits an Outdoor Recreation Bill could bring for all will be of much greater interest to people than the nuts and bolts of how it might be achieved.

## 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

Unlocking the potential of outdoor recreation to contribute to the wellbeing of all our citizens will require a **cross-sectoral approach** promoted through the Assembly. Consideration must be given to how this can be enabled through mechanisms within the proposed Outdoor Recreation Bill.

With secure and accessible Core Path Networks and other recreation infrastructure in place there would be greater scope to **integrate enjoyment of the outdoors with the health and wellbeing of our citizens**. Examples include the 'green prescription' approach to health; community walking initiatives; avoiding unnecessary travel (often to overcrowded locations); Forest Schools and other initiatives to support learning in the outdoors.

Mountaineering Ireland strongly recommend the inclusion of the **Environmental Engagement Index** in the suite of Programme for Government indicators as this is currently the only measure of people's relationship with the outdoor environment..

As an all-island governing body Mountaineering Ireland recognises the benefit in north-south collaboration and would encourage **engagement between NORF / SORG and Comhairle na Tuaithe**, the national advisory body on outdoor recreation.

With the rise in people seeking outdoor activities there has been a significant increase in **commercial providers of adventure activities**. Those delivering formally recognised mountain training courses are accredited and moderated by Mountain Training Board Ireland (MTBI), a sub-committee of Mountaineering Ireland, which includes a Tollymore National Outdoor Centre representative amongst its membership. MTBI and Mountaineering Ireland are also members of the UK and Ireland mountain training co-ordination organisation – Mountain Training United Kingdom and Ireland. However, there is no legal requirement in Northern Ireland for those offering commercial 'guiding' services to hold any qualifications and the GB Adventure Activity Licensing Scheme, run by the Health and Safety Executive, was not implemented in Northern Ireland.

The current review presents an opportunity to re-consider the possible introduction of a **licensing scheme for adventure activity providers** in Northern Ireland, or at least some form of registration scheme for providers with involvement from relevant NGBs and statutory bodies such as Sport NI. This would help promote good practice covering issues such as safety, as well as responsibility towards host communities and environmental protection.

Submissions should be e-mailed (preferable) to: [AccessforOutdoorRecreation@daera-ni.gov.uk](mailto: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 **29<sup>th</sup> March 2021**

## 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](mailto: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