

Glossary of terms used in the scheme

We use the word “means” to introduce explanations of terms with a statutory origin and other well established terminology. Elsewhere we indicate what a particular term is used in the Scheme to describe. The terms and their explanation are simply for guidance and are not intended to have any legal effect.

Any terms shown in bold type within each explanation are included as a separate entry elsewhere in the glossary.

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1949 Act means the National Parks and Access to the Countryside Act 1949. The 1949 Act includes provisions and procedures for the creation of long-distance routes (now more commonly known as **National Trails**). These provisions were amended and added to by the **2009 Act** for the purpose of identifying the **route**. The 1949 Act is published at: <http://www.legislation.gov.uk/>

2009 Act means the Marine and Coastal Access Act 2009. Part 9 of the 2009 Act includes provisions to improve public access to the coast. There are supplementary provisions relating to:

- consideration of **coastal access reports, objections** and representations by the Secretary of State – in Schedule 1A to the 1949 Act (inserted by Schedule 19 to the 2009 Act);
- the establishment and maintenance of the trail – in Schedule 20 to the 2009 Act.

Section 1.2 of the Scheme includes a brief overview of the main provisions of the 2009 Act, which are explained in more detail in subsequent chapters. The 2009 Act is published at: <http://www.legislation.gov.uk/>

access strip is the term the Scheme uses to describe a strip of land by means of which the **trail** may cross specific categories of **excepted land** where so indicated in Schedule 1 to **CROW**. Figure 1 in section 2.3 of the Scheme explains these provisions in more detail.

access authority means the access authority for coastal access land, as defined by section 1(2) of **CROW**. This is the local highway authority except for land within a National Park, where it is the National Park Authority.

alignment is the term the Scheme uses to describe the process by which we make choices about the proposed route that the **trail** should follow and the proposed landward boundary of the **coastal margin**.

alignment solutions is the term the Scheme uses to describe using local **alignment** decisions to address potential concerns about **coastal access rights**. Section 6.4 of the Scheme describes how this is done. Chapters 7 and 8 of the Scheme set out the potential relevance of specific alignment solutions to issues relating to particular coastal land covers, landforms or land uses.

alternative route means a route proposed to the **Secretary of State** as part of our report for a stretch of coast, for use by the public at times when access along part of the normal route is excluded under a **direction**. The associated term **optional alternative route** denotes an alternative route which the public has the option to use at times when the normal route (even though not formally closed) is unsuitable for use because of flooding, tidal action, coastal erosion or other geomorphological processes. Figure 17 in chapter 6 of the Scheme explains alternative routes in more detail. Paragraphs 4.10.16 to 4.10.18 of the Scheme explain more about the potential use of optional alternative routes.

appropriate assessment means, for the purposes of the Scheme, an assessment of the implications of a plan or project for a **European site** in view of the site's conservation objectives, made in accordance with Article 6.3 of the **Habitats Directive**. Natural England is required to conduct an appropriate assessment where it concludes that the introduction of **coastal access rights** in the form proposed is likely to have a significant effect on the conservation objectives for a European site. Our proposals to the Secretary of State include as necessary any local measures designed to prevent such a likely significant effect arising

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from improved access. Section 4.9 of the Scheme explains in more detail how we fulfil this requirement where it is relevant.

assistance dog means a dog trained by an accredited organisation to assist a disabled person.

building has the same meaning given in Schedule 1 to **CROW**, as amended for the coast by the **Order**. The term includes any structure or erection and any part of a building. For this purpose "structure" includes any tent, caravan or other temporary or moveable structure. It does not include any fence or wall, anything which is a means of access (as defined by section 34 of **CROW**– for example steps or bridges), or any slipway, hard or quay.

Coastal Access Duty is explained in section 1.2.

coastal access report means a report prepared by Natural England under section 51 of the **1949 Act**. It must set out proposals to the **Secretary of State** for the alignment of the **route**, and identify the landward boundary of the coastal margin, for the stretch of coast in question. Figure 9 in chapter 3 of the Scheme describes the contents of a coastal access report in more detail.

coastal access rights is the term the Scheme uses to describe the rights of public access to the coast provided under section 2(1) of **CROW** as a result of the provisions of the **2009 Act** and the **Order**. Coastal access rights are rights of access on foot for open-air recreation but are by default subject to **national restrictions** and may additionally be subject to **directions** which **restrict** or **exclude** them locally. Section 2.4 of the Scheme explains more about the nature and management of coastal access rights.

coastal margin or **margin** means a margin of land at the coast falling within one or more of the descriptions given at article 3 of the **Order**. It is explained at section 1.3. Its main component is land subject to the **coastal access rights**, but it also contains other land, including some land that is not accessible to the public. A land owner may also voluntarily include land in the coastal access margin by making a **dedication**. Section 2.3 of the Scheme explains these other categories of land and how they fit in.

Countryside Code is a statutory code of conduct for people visiting the countryside or managing rural land. It is produced by Natural England in accordance with our duty under section 86(1) of the **1949 Act** and section 20 of **CROW** (as amended by section 303(7) of the 2009 Act). Figure 18 in Section 6.5 of the Scheme explains more about the Code.

CROW means the Countryside and Rights of Way Act 2000. **Coastal access rights** take effect by virtue of section 2(1) of CROW. Certain provisions in CROW are amended or added to by the **2009 Act** and the **Order** for the purposes of the coast. Chapter 2 of the Scheme provides an overview of how the amended CROW provisions apply to the coast. CROW is published at: <http://www.legislation.gov.uk/>

direction means a direction under chapter II of Part 1 of **CROW** to impose **local restrictions** or **local exclusions** on the use of the **coastal access rights**.

dedication means any voluntary dedication of land by the owner or long leaseholder under section 16 of **CROW** so that it will be subject to access rights under that Act. A dedication may also make provision for specific **national restrictions** that would otherwise apply over the affected land to be removed or relaxed. Land within the **coastal margin** that was previously dedicated as access land under CROW becomes subject to the coastal access regime. An owner or long leaseholder may also 'opt in' to the coastal access regime land where it would not otherwise apply, by dedicating the land as coastal margin. Section 4.8 of the Scheme explains these scenarios in more detail.

England Coast Path refers to the **trail** we are creating around the whole coast of England in accordance with the **Coastal Access Duty**. See section 1.2.

estuary criteria is the term the Scheme uses for the criteria set out in section 301(4) of the 2009 Act. Natural England must consider these criteria, alongside the more general ones set out in section 297 of the 2009 Act and any other relevant local factors, in deciding what if any improved access provisions to propose to the **Secretary of State** in relation to any particular estuary. Chapter 10 of the Scheme considers the estuary criteria in more detail.

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estuarial waters are defined in section 309 of the **2009 Act** as any waters within the limits of transitional waters within the meaning of Council Directive 2000/60/EC (the European Community Water Framework Directive). Transitional waters are defined in Schedule 1 to the Directive as “bodies of surface water in the vicinity of river mouths which are partially saline in character as a result of their proximity to coastal waters but which are substantially influenced by freshwater flows”. The Environment Agency has mapped their **seaward limit** on each English estuary. Section 10.1 of the Scheme explains the relevance of estuarial waters to our proposals for coastal access at estuaries.

European site means a site:

- classified as a Special Protection Area (SPA) for birds under the **Birds Directive**; or
- designated as a Special Area of Conservation (SAC) under the **Habitats Directive**; or
- proposed to the European Commission as a site eligible for designation as a SAC for the purposes of Article 4.4 of the Habitats Directive (a candidate SAC).

This is relevant in the circumstances described under **appropriate assessment** above. It is Government policy, stated in Circular ODPM 06/2005 that, whilst not European sites as a matter of law, the following sites should be subject to the same procedures and protection as European sites:

- Any potential SPA (pSPA); and
- Any site listed as a Wetland of International Importance especially as Waterfowl Habitat under the Ramsar Convention on Wetlands of International Importance 1971 (a Ramsar site).

For this purpose, any reference in the Scheme to a European site or sites should be taken to include all the categories of site above.

excepted land means any land that falls within one of the descriptions set out in Schedule 1 to **CROW**, as amended for the coast by the **Order**. Even where land within these descriptions falls within the **coastal margin**, no **coastal access rights** will apply to it unless it is included in the margin by **dedication**. The Schedule allows for the **trail** to cross certain categories of land that are otherwise excepted land on an **access strip** to which coastal access rights will apply. The excepted land provisions do not affect any other public access rights or permissions that may apply on excepted land. In particular, even though public rights of way are treated as excepted land, the existing rights remain in force along them. Figure 1 in section 2.3 of the Scheme sets out in detail the descriptions of excepted land, including those which may be crossed by an access strip.

exclude/exclusion – see **local exclusion**

existing walked route(or **existing walked line**) refers to an informal route or a definitive public right of way (including an existing National Trail) that is already followed on the ground by the public. The relationship of the England Coast Path to existing walked routes is described in section 4.7. of the Scheme.

farm tenant means a tenant within the terms of section 2(4) of **CROW**. This is a tenant under a farm business tenancy within the meaning of the Agricultural Tenancies Act 1995 or a tenancy to which the Agricultural Holdings Act 1986 applies.

flood and coastal risk management is used to describe any aspect of:

- the consideration of risks to people and the developed, historic or natural environment posed by flooding and coastal erosion; and
- the development of plans and strategies for practical measures to manage and monitor the risks.

Sections 4.10 and 8.21 of the Scheme explain more about our approach to flood and coastal risk management.

foreshore is not defined in the **2009 Act** or the **Order**. In the Scheme it is taken to mean the land between mean low water and mean high water.

Habitats Directive means the European Community Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

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health and safety at work legislation is the term used in the Scheme to refer to:

- regulation 3 of the Management of Health and Safety at Work Regulations 1999 (S.I. 1999/3242), which requires employers and the self-employed to conduct an assessment of any risks to the public arising from their undertakings;
- section 3 of the Health and Safety at Work etc. Act 1974 (c.37), which requires them to conduct their undertakings in such a way as to ensure, so far as is reasonably practicable, that people are not exposed to risks to their health and safety, and all other relevant legislation.

implementation is the term the Scheme uses to describe the full process for implementation of the coastal access provisions. It includes preparation of a **coastal access report** for each **stretch** of coast, preparation for commencement of approved proposals. Chapter 3 of the Scheme provides an overview of the implementation process.

informal management is the term the Scheme uses to describe a range of practical, informal techniques which can be used to minimise any conflicts between public access and land management or other objectives. Informal management has no legal effect and there is no compulsion on the public to cooperate with it, but if done well it often proves highly effective. Section 6.5 of the Scheme explains our general approach to the use of informal management and includes examples of common techniques in figure 18 in chapter 6 of the Scheme. Chapters 7 and 8 of the Scheme explain how informal management can be used to address a range of specific issues.

infrastructure is the term the Scheme uses to describe the works and other physical measures necessary to facilitate public use of the **coastal access rights**, such as steps, gates and signs.

landward spreading room - see **spreading room**.

least restrictive option is the term the Scheme uses to describe the principle that where specific intervention is necessary to address potential impacts from the **coastal access rights**, our policy will be to adopt the least restrictive option on public access that will strike an appropriate balance at reasonable cost. Section 6.3 of the Scheme describes the application of this principle in more detail.

legal interest means an "interest" in land as defined in section 45(1) of **CROW**. It includes any estate in land and any right over land (whether exercisable by virtue of ownership of an estate or interest in land, or by virtue of a licence or agreement). It includes rights of common and sporting rights. Once the **Secretary of State** has approved the access arrangements for a stretch of coast, holders of legal interests, who may be individuals or organisations, may apply to the **relevant authority** for a **direction** to restrict or exclude access to land that has **coastal access rights**. Section 6.6 of the Scheme explains these provisions in more detail.

local access forum means a local access forum established under section 94 of **CROW**. Natural England is required to consult relevant local access forums in the preparation of each **coastal access report**, and to invite **representations** from them on its final report – see chapter 3 of the Scheme for details.

local exclusion, exclusion and **exclude** are terms the Scheme uses to refer to complete local exclusion of **coastal access rights** by **direction**. This is distinct from the **national restrictions** that apply on all coastal access land by default. Section 6.6 explains more about these provisions and our approach to their use.

local restriction, restriction and **restrict** are terms the Scheme uses to refer to specific local limitations placed on the exercise of **coastal access rights** by **direction** without resorting to complete **exclusion** of the rights. This is distinct from the **national restrictions** that apply on all coastal access land by default. Section 6.6 explains more about these provisions and our approach to their use.

livestock has the meaning given in section 45 of **CROW** - cattle, sheep, goats, swine, horses or poultry. For the purposes of this definition "cattle" means bulls, cows, oxen, heifers or

calves; "horses" include asses and mules; and "poultry" means domestic fowls, turkeys, geese or ducks. Where we use the term 'livestock' in the Scheme, we mean only those animals included within this definition.

managed realignment is a term the Scheme uses to describe a decision by the Environment Agency or others to allow the shoreline to move backward or forward in a managed way, for example limiting its movement by building new flood defence works on the landward side of the original ones. Section 4.10 of the Scheme explains more about our approach to coastlines which are subject to this policy.

margin – see **coastal margin**.

national restrictions is the term the Scheme uses to describe the "general restrictions" that must be observed by people exercising **coastal access rights**. They are set out in Schedule 2 to **CROW**, as amended by the **Order**. Specific national restrictions may be removed or relaxed by Natural England for a particular area of land if the land owner or **farm tenant** (as the case may be) for the time being consents to this; or a **dedication** by the land owner or long leaseholder may do the same on a permanent basis. Section 2.4 of the Scheme explains more about the national restrictions which apply to the coastal access rights.

National Trail means a long-distance route approved by the **Secretary of State** under section 52 of the **1949 Act**. In general the Scheme uses the term to refer to national trails other than the **England Coast Path**.

objection means an objection by a person with a **relevant interest** in affected land about a proposal in a **coastal access report**. An objection must be made to Natural England on certain specified grounds, in accordance with the provisions in Schedule 1A to the **1949 Act** (as inserted by Schedule 19 to the **2009 Act**). Stage 3 of the implementation process described in chapter 3 of the Scheme discusses eligibility to object and provides an overview of the procedures.

occupiers' liability means the duty of care that the occupier of land owes to others under the Occupiers' Liability Acts 1957 and 1984. This duty of care is uniquely low on land where the **coastal access rights** apply.

open country refers to land conclusively mapped as such under **CROW** for access purposes because it consists wholly or predominantly of mountain, moor, heath or down. Where such land is included within the **coastal margin** under proposals approved by the **Secretary of State** (or included in the margin by **dedication**), it ceases to be regarded as open country for the purposes of **CROW**, and instead becomes subject to the coastal access regime. Section 3.4.17 of the Scheme explains in more detail the effect of this change.

optional alternative route – see **alternative route**.

Order means the Access to the Countryside (Coastal Margin) (England) Order 2010 (S.I. 2010/558), made under section 3A of **CROW**. It sets out descriptions of land which are **coastal margin** and amends Part I of **CROW** in certain key respects for the purposes of coastal access. The effect of these changes is reflected by the relevant glossary entries and the more detailed explanations in relevant sections of the Scheme. The Order is published at: <http://www.legislation.gov.uk/>

ordinary route or **normal route** means the line normally followed by the **trail**, as explained in section 1.2, at any time when it is not diverted along an **alternative route** or **temporary route**.

outline direction is the term the Scheme uses to mean a **direction** that allows the precise timing or, under certain circumstances, the precise location of any actual **restriction** or **exclusion** under the direction to be determined later by a specified person. Section 6.7 of the Scheme explains outline directions in more detail.

PINS means the Planning Inspectorate, an Executive Agency of the Department for Communities and Local Government.

registered common land refers to land conclusively mapped as such under **CROW** for access purposes. Where such land is included within the **coastal margin** under proposals approved by the **Secretary of State** (or is included in the margin by **dedication**), it ceases to be regarded as

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registered common land for the purposes of **CROW**, and instead becomes subject to the coastal access regime. Section 3.4.17 of the Scheme explains in more detail the effect of this change.

relevant authority means the authority with powers to make **directions** to **exclude** or **restrict** the **coastal access rights** locally. Natural England is the relevant authority for land subject to **coastal access rights**. It may delegate this role to the National Park Authority or the Forestry Commission under the circumstances described in section 3.3.6 of the Scheme. The Ministry of Defence and the Home Office have comparable powers relating to defence and national security needs, respectively. Section 6.6 of the Scheme explains these powers in more detail.

relevant authority guidance means Natural England's guidance under section 33 of **CROW** to the other relevant authorities who administer **local restrictions** and **local exclusions** on CROW rights outside the **coastal margin** – see section 1.4.4 of the Scheme. The relevant authority guidance is available to view at: www.naturalengland.org.uk/ourwork/enjoying/places/openaccess/restrictions.aspx

For land subject to coastal access rights, the comparable guidance is largely provided by the Scheme itself.

relevant interest means a relevant interest in land, as defined by section 297(4) of the **2009 Act**. This is a person who:

- holds an estate in fee simple absolute in possession in the land,
- holds a term of years absolute in the land, or
- is in lawful occupation of the land.

A relevant interest must therefore own or occupy the land in question, rather than simply having some kind of **legal interest** over it.

representation means a representation made by any person about any aspect of a **coastal access report**. A representation may be made to Natural England on any grounds, in accordance with the provisions in Schedule 1A to the **1949 Act** (as inserted by Schedule 19 to the **2009 Act**). Stage 4 of the implementation process described in chapter 3 of the Scheme provides an overview of the procedures for considering representations.

restrict/restriction – see **local restriction**

roll back is the term the Scheme uses to describe arrangements made under the provisions of section 55B of the **1949 Act**, whereby we may propose to the **Secretary of State** in a **coastal access report** that the route of a specified part of the **trail** which is subject to significant erosion or other coastal processes, or which links to such a section of trail, should be capable of being repositioned later in accordance with the proposals in our report, without further confirmation by the Secretary of State. Section 4.10 of the Scheme explains in more detail how this works.

route means the line followed by the **trail**, as explained in section 1.3. There may also be an **alternative route** or **temporary route** at times.

Scheduled Monument means a site or monument of national importance given legal protection by virtue of being listed on the Schedule of Monuments under section 1 of the Ancient Monuments and Archaeological Areas Act 1979.

seaward limit means the furthest seaward extent of the **estuarial waters** of a river. This limit is mapped by the Environment Agency for each English estuary. Upstream of this limit Natural England has a discretion under section 301(2) of the **2009 Act** to propose to the **Secretary of State** that the **trail** be extended on either side of the estuarial waters as far as:

- the first bridge or tunnel with public pedestrian access; or
- a specified point between the seaward limit and this first bridge or tunnel.

Chapter 10 of the Scheme describes the operation of these provisions in more detail.

Secretary of State means the Secretary of State for Environment, Food and Rural Affairs, or any successor to that office.

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section 15 land means land with public access rights under:

- section 193 of the Law of Property Act 1925;
- a local or private Act;
- a management scheme made under Part I of the Commons Act 1899; or
- an access agreement or access order made under Part V of the National Parks and Access to the Countryside Act 1949,

or land subject to, or potentially subject to, public access under section 19 of the Ancient Monuments and Archaeological Areas Act 1979. Where section 15 land forms part of the **coastal margin** (which it may do in any of the ways explained in section 4.8 of the Scheme), these rights apply instead of the **coastal access rights**. Figure 6 in section 2.4 of the Scheme shows in more detail the relationship of section 15 land to the coastal access regime.

Site of Special Scientific Interest means a site notified under section 28 of the Wildlife and Countryside Act 1981 (as amended) as nationally important for its wildlife and/or geological or geographical features.

spreading room (see section 1.3) is the term the Scheme uses to describe any land, other than the **trail** itself, which forms part of the **coastal margin** and which has public rights of access. In addition to land with **coastal access rights** it therefore includes areas of **section 15 land**. Spreading room may be either seaward or landward of the **trail**, according to the extent of the margin. Section 4.8 of the Scheme explains in more detail the ways in which land may become spreading room. Spreading room may be subject to **directions** that **restrict** or **exclude** the coastal access rights locally from time to time. However, the Scheme does not use the term to describe land which is subject to a direction which excludes access for the long-term. Land is not described as spreading room in the Scheme if it falls into one of the descriptions of **excepted land**, although it may become spreading room if it loses its excepted status as a result of a change of use, or if the owner dedicates it as coastal margin. Where highways such as roads or public rights of way cross spreading room, they remain subject to the existing highway rights rather than becoming subject to coastal access rights.

strategic environmental assessment means the overall requirements of European Community Council Directive 2001/42/EC. Sections 4.9.9 and 4.9.10 of the Scheme describe the circumstances in which we would conduct a strategic environmental assessment.

stretch is the term the Scheme uses to describe the piece of coastline covered by a **coastal access report**. Section 3.2 of the Scheme outlines how the coast is divided into stretches for this purpose.

temporary route means a diversionary route which operates while access along the ordinary route is excluded by **direction**. Unlike an **alternative route**, a temporary route is specified later by or under the direction, rather than being proposed in the report for that stretch. Land owner consent may be needed in some circumstances for use of a temporary route. Figure 17 in chapter 6 of the Scheme explains the provisions for temporary routes in more detail.

trail is the term the Scheme uses to describe the strip of land people walk along when following the route identified for the purposes of the **Coastal Access Duty**: see section 1.2. Following approval by the Secretary of State of the proposals in our coastal access report, the trail along that stretch becomes part of the **National Trail** known as the **England Coast Path**. By default, it is the land within 2 metres on either side of the approved route line, but often it is wider or narrower than this. The trail forms part of the **coastal margin**.

variation report means a report to the **Secretary of State** under section 55(1) of the **1949 Act**. Natural England may prepare a variation report proposing changes to coastal access proposals that have previously been approved by the Secretary of State. Figure 10 in chapter 3 of the Scheme explains in more detail the circumstances when a variation report is necessary.

walking the course is the term the Scheme uses to refer to visits by us or on our behalf to land that may be affected by our proposals in order to discuss options for alignment and access management with those who own or manage the land. Stage 2 of the implementation process described in chapter 3 of the Scheme explains this aspect of the process in more detail.