



## **What is the Coast Path?**

The England Coast Path will be a new 2,700-mile national trail around England's coast. The path means that, for the first time, the public will have a secure and legal right of access around the whole of the English coast. Where appropriate, this also includes some of the land alongside the path.

## **Who is responsible for the scheme?**

The [Marine and Coastal Access Act 2009 \(section 296\)](#) places a duty on Natural England and the Secretary of State to use their powers to secure twin objectives:

- To secure a route around the whole of the English coast, which the 2009 Act refers to as “the English coastal route”.
- To secure an associated “margin” of land for the public to enjoy, either in conjunction with their access along the route line, or otherwise.

Natural England produced a document at the start of the scheme that describes the statutory background, the guidelines for implementing the scheme and the methodology, procedures and principles to be followed. This is the “[Coastal Access, Natural England's Approved Scheme, 9 July 2013](#)”, otherwise known as the ‘Coastal Access Approved Scheme’. The documentation and latest information about each stretch is available on the [Natural England website](#).

## **How does Natural England decide between different route options?**

The process of establishing a new stretch of coast path is outlined in the [Coastal Access Approved Scheme](#). Section 297 of the Marine and Coastal Act outlines the coastal access duty and the requirement for Natural England to strike a fair balance between the interests of the public in having rights of access, and the interests of those who own and use land over which the path passes. This balance is also discussed in the [Coastal Access Approved Scheme](#) chapters 5 and 6.

When identifying a route, Natural England will normally use existing public rights of way or walked routes provided they meet the statutory criteria. Therefore, the coastal path might include sections with an existing public right of way interspersed with sections without.

## **What is the “coastal margin” and “spreading room”?**

The England Coastal Path is the physical route around the coast. By default, the path will be 4 metres wide (2 metres either side of the route); however, Natural England will often propose to adjust the landward edge to coincide with a particular physical feature on the ground, such as a fence or pavement edge. Therefore, in practice, the path may vary in width and may be narrower or wider than 4 metres. Associated with this route is a “coastal margin”. All the land between the path and the sea automatically becomes coastal margin. Other land of specific types (such as some areas of foreshore, beaches or dunes) will also become coastal margin if it lies on the landward side of the route and touches either the route or the coastal margin. Where there is a clear recreational benefit or where doing so would provide clarity, Natural England can use its discretion to include additional land on the landward side. They would only do this where the landowner agrees.

The “spreading room” is the part of the coastal margin that the public has access to by foot for its enjoyment. Some areas of the coastal margin are excepted land and do not permit public access, and Natural England can also put directions in place to formally exclude or restrict access where they are necessary e.g. for land management or public safety purposes (see below).

The coastal margin will appear on O/S maps as a magenta wash (an example is found on the [O/S site](#)). This will encompass all land between the trail and mean low water, including excepted and restricted land. The legend includes a caveat that explains that areas within the margin should not be assumed to have access rights, as it may be “excepted” or restricted land, or may be dangerous. O/S decided on this approach following consultation with various bodies including the CLA, and the Ramblers Association.

## **What is “excepted land”?**

There are parts of the coastal margin that are automatically exempt from the access rights, and these are known as ‘excepted land’. Figure 1 of the [Coastal Access Approved Scheme](#) lists these.

Most relevant to RYA affiliated organisations is “land covered by buildings or the curtilage of such land”. A “building” includes any structure (including a tent, caravan or other temporary or moveable structure) or erection, such as a clubhouse and any part of a building, but does not include any fence or wall, anything which is a means of access (e.g. steps or bridges), or any slipway, hard or quay and therefore these cannot be excepted. Some features such as jetties and pontoons are likely to be excepted land.

Although Natural England might be willing to express an opinion, Natural England does not have the authority to determine whether land is or is not “excepted” – that is a matter for the courts. As such, formal proposals will not normally make reference to the “excepted” status of individual land parcels.

## **What is “curtilage”?**

There is no definition in the Coastal Access Approved Scheme of the expression “curtilage”. Curtilage generally means an area forming part and parcel with the building(s) to which it is attached. In most cases, the extent of curtilage will be clear. Government guidance suggests that this could typically be an enclosure around a dwelling containing a garden, garage and side passage; a walled enclosure outside a barn, or a collection of buildings grouped around a farm house and farm yard. Although the extent of curtilage will depend on a number of factors, in the context of some club premises, the RYA believes that there is a reasonably strong argument that the curtilage of a building would likely include the dinghy park located within the same field as the building. There may be more difficulty if there is additional boat storage in adjacent or unconnected fields in which there is no building, although Natural England is still under an obligation to “aim to strike a fair balance between the interests of the public in having rights of access over land and the interests of any person with a relevant interest in the land”.

## **What if Natural England advises my land is not “excepted”?**

As explained above, Natural England is only in a position to offer its opinion as to whether land is or is not “excepted” - it does not have the authority to determine the issue. The difficulty is that, in the absence of a specific court decision, whether or not a particular area of land is indeed “excepted” could remain uncertain. An occupier might consider their land to be “excepted” and manage it accordingly whereas the general public might seek to exercise access rights over that land, particularly if that land offers some public amenity that would otherwise be unavailable in the immediate vicinity. Clubs whose dinghy parks are located seaward of the coast path should therefore be sensitive to this uncertainty when dealing with members of the public. In any event, the Countryside Rights of Way Act (CROW) does not give members of the public the right to disrupt any lawful activities taking place on land within the coastal margin.

There is no requirement on occupiers of land within the coastal margin to make this land any more physically accessible than it currently is. Therefore any physical barriers that currently prevent access to the coastal margin may remain. Occupiers may also use informal management such as barriers, to deter users of the England Coast Path from sensitive land. Signage may also be used, so long as it does not specifically deter access to land to which access rights do apply. If such

informal management is agreed with Natural England in advance of the publication of proposals, it may be included within establishment works, otherwise, clubs may apply for funding via the [England Coast Path Establishment Fund \(ECPEF\)](#).

## **Will an existing public footpath affect the route?**

The Marine and Coastal Access Act allows for the coastal path to be routed across access land designated under the Countryside and Rights of Way Act 2000 as well as using existing public rights of way. Natural England's Approved Scheme proposes that where possible the route will follow existing walked lines on the ground (where there is an existing national trail along the coast or another clear walked line along the coast, whatever its status), and so might include sections with an existing public right of way interspersed with sections without.

The routing of the coastal path along an existing public right of way across "excepted land" will mean that the land seaward of the public footpath is coastal margin, however it will have no public right of access. The existence of a public footpath across a club's premises should therefore not of itself cause a particular problem in the context of the coastal path as the public's ability to use that 'adopted' section of the path would be based on the existing rights.

## **What will the path look like?**

It is unlikely that any physical alterations to the width or surface will be carried out, provided it is considered to be satisfactory e.g. safe and practicable. Where a new alignment is used, the surface that already exists would be normally relied upon.

Directional signage (signposts, way markers etc.) will be erected usually by the Local Authority, but the location and number would be discussed and agreed with landowners and occupiers. Natural England can also discuss provision of other signage or interpretation to help informal management, although use of signs for this purpose will be kept to a minimum. Landowners or occupiers may choose to put up other signs to help manage their land, as they feel appropriate.

## **What does this allow the public to do on our land?**

Rules on what can and can't be done on the path can be found on the [Natural England website](#). Coastal Access rights do entitle the public to bring fishing equipment on to land with coastal access rights and to exercise from that land any existing right to fish those waters, such as the common law right to fish in the sea and tidal waters. They may not use fishing equipment whilst on land used for grazing or other agricultural purposes. Coastal Access rights do not give a member of the public the right to launch a vessel from club land. Areas within the coastal margin such as equipment compounds or pontoons can still be locked up to keep them secure. Under Schedule 2 of the Countryside Rights of Way Act 2000, the public must not do anything to deter a lawful activity from taking place on that land or land adjoining it by either intimidation, obstruction or disruption.

## **How could Coastal Access affect recreational boating activities?**

Circumstances for each stretch of path will vary and each situation will be dealt with on a case-by-case basis. The majority of clubs are therefore likely to be unaffected because their dinghy parks are not physically accessible, do not offer any amenity to the general public, parks are in the curtilage of their clubhouses and thus excepted land, or there are already stretches of coastal path that run between their dinghy parks and the sea that would almost certainly in practice carry the route of the coastal path.

However, where this is not the case, Section 5.2.1 of the Coastal Access Approved Scheme states that "flexible alignment powers under the 2009 Act should in general ensure that coastal access rights will not interfere in any significant way with the operational needs of coastal businesses or organisations such as sporting clubs".

If an area is routinely used in such a way that the path would be consistently obstructed by recreational boating activities, then it is very unlikely the route would be aligned through it. It is important that the path is unobstructed but if, for instance, a walker was asked to stop for a few minutes while a boat was towed across the path, this would not be unreasonable. Nor would it be unreasonable to put up a sign saying that a race event/launching of dinghies is taking place, and to ask people not to obstruct or disrupt those taking part.

If the path will be obstructed for a longer period, then an alternative needs to be available. Where the diversion is small and needs to happen infrequently, this is likely to be an informal arrangement. If it is only spreading room that is involved, an informal management is normally the best solution and the one that would be applied, but formal directions to exclude or restrict access can be considered.

If it is a bigger issue, then Natural England can consider excluding access by way of a formal direction and providing an Alternative Route. We understand that this mechanism has already been put in place for a club where a boatlift is in use around six times per year and the route runs underneath the boats being lifted. Here, there was an Alternative Route put in place around the back of the yard, and a sign and map put in place at either end where the route diverts.

These discussions can be referred to within the coastal access report and could, for example, say something like 'NE and the club have agreed that access will be managed through the use of signage when race events take place'. The club would not be expected to change practices such as leaving launching trolleys on their land within the coastal margin. Further information on how restrictions can be put in place once the path is open can be found in the [guidance information](#). There is no need to apply for a restriction if it is already included in the coastal access report. Additionally, restrictions cannot be applied to land that is "excepted" by default.

## **How is liability to the public affected on the new coastal access route?**

In their standard letter to owners and occupiers, Natural England make the following statement on owners' liability: "Land subject to coastal access rights benefits from the lowest level of occupiers' liability under English law - considerably lower than the duty of care owed towards trespassers on private land, and this applies to both natural and man-made features. This makes it extremely unlikely in normal circumstances that an occupier could successfully be sued in relation to injury on land with coastal access rights". Excepted land and land where access is excluded by a direction (restriction) are not subject to coastal access rights.

More detailed guides on occupiers' liability are available on the [RYA website](#) (club login required) and from the [CLA](#).

## **What are the stages of the scheme that will affect my organisation?**

An overview of the implementation of the scheme is set out below, as in Figure 7 of the Coastal Path Approved Scheme:

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

The procedures for implementation of the England Coast Path, as set out in the Coastal Path Approved Scheme, treat land owners and occupiers in the same way. Natural England will usually contact the landowner; however, the RYA recommends that leaseholders also contact their landlords directly to discuss the proposals. Landowners or occupiers should first be contacted in Stage 2, "Develop", to obtain their proposals and thoughts. At this stage, Natural England will offer to "walk the route" to improve understanding. Natural England will prepare detailed proposals for each section of the path. These will be sent to each landowner who will usually have around 3 weeks to make any comments or representation.

Natural England will then prepare a statutory report incorporating input from landowners and stakeholders, and will then publish the report for that stretch of the scheme to the Secretary of State. Stakeholders may make objections or representations to the report during a consultation period of 8 weeks. These will be considered by the Secretary of State, who decides whether to approve the Natural England proposals, with or without the modifications.

Natural England will receive objections from landowners or occupiers only. Other stakeholders may only make representations. Landowners or occupiers may initially raise concerns directly with Natural England during discussions at Stage 2 and then through formal objections at the end of Stage 3, during the formal/statutory public consultation period.

## What is the timetable for the scheme?

The England Coast Path was a key Government objective when the Marine and Coastal Access Act 2009 was enacted. Implementation has begun and the scheme is due to be completed by the end of 2020. Work is now officially underway along the whole of the English Coast.

Natural England produces an updated map of the "Stretch Progress" on its [website](#). This map divides the England Coast Path into 66 stretches. The progress for each stretch, and associated maps and reports are also available on the [website](#).

## **About the RYA**

*The RYA is the national body for all forms of recreational and competitive boating under sail or power. It represents dinghy and yacht racing, motor and sail cruising, RIBs and sportsboats, powerboat racing, windsurfing, inland cruising and personal watercraft. The RYA manages the British sailing team and Great Britain was the top sailing nation at each of the 2000, 2004, 2008 and 2016 Olympic Games and at the 2012 Paralympic Games.*

*The RYA is recognised by Government as being the primary consultative body for the activities it represents. The RYA currently has over 110,000 personal members, the majority of whom choose to go afloat for purely recreational non-competitive pleasure on coastal and inland waters. There are an estimated further 350,000 boat owners nationally who are members of over 1,400 RYA affiliated clubs and other organisations.*

*The RYA also sets and maintains an international standard for recreational boat training through a network of over 2,400 RYA Recognised Training Centres over 58 countries. On average, approximately 240,000 people per year complete RYA training courses. RYA training courses form the basis for the small craft training of lifeboat crews, police officers and the Royal Navy and are also adopted as a template for training in many other countries throughout the world.*

## **RYA Responsibility Statement**

*The RYA Legal Team provides generic legal advice for RYA members, affiliated clubs and Recognised Training Centres. The information contained in this Guidance represents the RYA's interpretation of the law as at the date of this edition. The RYA takes all reasonable care to ensure that the information contained in this Guidance is accurate and that any opinions, interpretations and guidance expressed have been carefully considered in the context in which they are expressed. However, before taking any action based on the contents of this Guidance, readers are advised to confirm the up to date position and to take appropriate professional advice specific to their individual circumstances.*

## **Further information**

*For further information on the coast path, or if your club has any concerns during this process, please contact the RYA using the details below:*



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