

Explanatory notes on Form OACC2: Notification of discretionary '28 day' restrictions or discretionary dog exclusions

Introduction

The Countryside and Rights of Way (CROW) Act 2000 introduces public rights to enjoy areas of "access land" – usually registered common land or open country (mountain, moor, heath or down). The Act gives owners or farm tenants of access land certain 'discretionary' powers to restrict CROW access. The table on the front page of Form OACC2 shows who holds which discretionary power. For any other type of restriction you are seeking, use Form OACC1 ("Application for a direction restricting CROW access").

You can use Form OACC2:

- to register your details with us;
- to notify now any discretionary '28 day' restrictions (if eligible); and/or
- to notify now any discretionary dog exclusions (if eligible).

These two types of restriction are explained on pages 9-11 of the booklet "Statutory restrictions on access land: a guide for land managers", which forms part of our special guidance pack for people who own or manage access land. If you do not already have the Pack, you can see it by:

- visiting our website www.openaccess.gov.uk
- calling our Open Access Contact Centre on **0845 100 3298**, or;
- emailing them at openaccess@countryside.gov.uk

The website also has details of key dates, including the first dates from which we can accept completed discretionary notification forms in the various CROW mapping areas.

If you have registered your details with us before, using one of these forms or the application form (OACC1), you will not need to repeat the detail here unless it has changed. You just need to give us enough information to be sure of identifying you and the land in question.

Note: In both the form and these notes, "us"/"we"/"our" refers to the "relevant authority" that administers the CROW access restrictions system. This is usually the Countryside Agency or, where appropriate, the national park authority. The completed form is returned in all cases to our Open Access Contact Centre in Belfast. Their address is on the front page of the form.

Is your land CROW access land?

If you do not know whether your land is CROW access land, you can check this by visiting our website (address above). Unless you have voluntarily dedicated land for CROW access, it will only be affected if it is open country (mainly mountain, moor, heath or down) or registered common land. And some open country and registered common land will not be subject to the CROW rights because it already has open access rights over it - this is known as "Section 15 land". It is shown separately on our website. You cannot use CROW restrictions on land that is not subject to CROW access rights.

Do you need local restrictions?

National restrictions

There are already various national restrictions on the CROW access rights. These are specific limitations on the range of activities included in the rights. For example, the rights are only for people to enjoy recreation on foot in the open air. They do not apply to horse riders, cyclists, vehicle users etc unless you decide to create such higher rights voluntarily. There are also requirements for users of CROW access rights to keep dogs on short fixed leads between 1 March and 31 July, and at all other times in the vicinity of livestock. You do not need to take any action in order to make these national restrictions on the new rights apply. But they do not affect anything already done on the land, eg along public rights of way.

Positive access management

Low-key public access often coexists well with farming and other forms of land management. Indeed, much CROW access land already has low-key public access in practice. There may be no need for you to take any special action in order to prepare for the introduction of CROW access rights. You may want to wait and see whether the introduction of the rights produces any significant increase in levels of public use: often it will not.

If you do wish to take action now to avoid any undesirable impacts on your land management activities, you should consider using simple positive access management techniques. Our land managers' guidance pack (see Introduction above) contains the booklet "Positive access management – practical ways to manage public access on your land". This draws on a wealth of experience and good practice from around the country to set out tried and tested ways in which you can manage access on the ground whenever you need to, without seeking approval or having to notify anyone. We strongly advise you to read through the Pack carefully before deciding whether you will also need to use discretionary or other restrictions.

Existing public uses of your land are unaffected

If you do decide to use your discretionary powers to restrict CROW access, please note that such restrictions will not affect the use of any public rights of way over your land, or affect any other rights or established traditions of access there.

Using Form OACC2

The front page of the form explains the purpose of each of its five parts. There are also continuation sheets at the back, if you need them.

Part A – Legal interest in access land

A.1 Legal interest

As explained earlier, this form is only for use by/for someone whose legal interest in CROW access land is as its owner or farm tenant. No-one else is eligible to use discretionary powers to notify us of restrictions. The table on the front page of the form shows which discretionary powers may be used by the landowner, landlord, or farm tenant, as the case may be.

The first time we receive details of this person or organisation, we register their details and issue them with a unique CROW ID. This ID should then be used in all future dealings with us about CROW restrictions in their name. Since anyone with access to the CROW ID will be able to act for the person holding the legal interest, it should be used with care. If a CROW ID has already been issued for this person or organisation to use for restrictions purposes, the ID number should be entered in Section A.1, together with a contact name and telephone number.

If you are an agent acting for a number of clients with CROW access land, you will need to use a different form and different CROW ID for each client.

You need to complete the whole of section A.1, even if you do not need to complete Section A.2 because the relevant land parcels are already registered with us.

A.2 Access land details

Use section A.2 if you wish to specify named parcels of access land where you need to use your discretionary restriction powers now or later. The land parcels you identify should be chosen to reflect your land management needs and, so far as possible, relate to physically clear features on the ground that people will find easy to recognise. You can tell us about new or different land parcels later, for example if your land management needs change or you acquire other access land. There are notes below about using each of the columns at A.2.

Enclosing a map

If you are completing section A.2, you will need to enclose one or more maps identifying clearly to us the named land parcels you are referring to. You can check the maps of CROW access land by visiting the website address shown in the Introduction above. You can print relevant extracts from these maps and mark your land parcel boundaries clearly with a felt tip pen. Alternatively, if you know your land is CROW access land, you could photocopy part of a suitably detailed map (eg at 1:25,000 scale), and mark the boundaries on this copy instead.

Ref. No.

(Section A.2, Column 1)

We suggest you use the pre-printed reference numbers in column 1 to label each of your named land parcels on the map(s) you enclose. This will save you writing the parcel name on the map, and possibly obscuring important map detail that we need to see.

Your name for the land parcel(s)

(Section A.2, Column 2)

You need to give each land parcel a name that you will use in future to describe it to us. Any name will do, but avoid using

the same land parcel name more than once within the same person's or organisation's land.

Grid reference or place name

(Section A.2, Column 3)

To make sure we can locate the map extracts you have sent us, please include here for each land parcel the name of a nearby town or village, or if you prefer, a grid reference for the centre of the land parcel.

Your legal interest in this land parcel

(Section A.2, Columns 4 to 6)

For each land parcel named in A.2 column 2, please tick column 4, 5 or 6 as appropriate to indicate the legal interest held on that parcel by the person/organisation specified in A.1. This interest must be either as:

- Landowner (ie the owner of land with no farm tenant)
- Landlord (ie the owner of land with a farm tenant); or
- Farm tenant.

No-one else is eligible to use any discretionary restriction powers.

Part B – Contact details

B.1 CROW ID status

Depending on whether you have already received a CROW ID, please complete either the first or the second part of section B.1.

B.2 Contact details

Please leave this section blank or complete as appropriate, according to your response to section B.1. The contact details we need here are those of the person with whom we will be dealing in connection with CROW restrictions – for example the land agent, rather than the client who holds the legal interest in the land.

B.3 Preferred method of written communication

If you have not completed this section before (or your preference or email address has changed), please state here how you would prefer us to write to you. Communications will be quicker and cheaper if we can use an email address, so long as it is one you regularly check. Please note that if you tick the email preference, we will take this as your authority until further notice to use email to contact you on matters relating to CROW access and restrictions.

Part C – Notification options

C.1 Options

Please tick either the first or the second box. If at this stage you are only registering your details, you should now finish the form by completing and signing the Declaration on the front page, and then return it to the address shown there.

If you want to notify restrictions now, please also tick the relevant sub-box(es), and then complete Part D and/or Part E as appropriate.

Part D – Discretionary ‘28 day’ restrictions

If eligible, you can use this section to notify one or more discretionary (‘28 day’) restrictions. If you prefer, you can do this online by visiting our website (see Introduction above for web address). Or, once you have registered your details initially with us, you can notify this type of restriction by telephone, so long as you quote the relevant CROW ID and are able to give us the information we need in order to take clear details of the restriction.

Please note that at least five working days’ notice is normally required before such a restriction can take effect. If the restriction is small-scale, however, at least two hours’ notice is required. “Small-scale” means that the restriction affects:

- no more than five hectares of land for no more than five working days; or
- any area of land for no more than four hours

and in either case will not prevent access to any other land to which the public have access rights.

If you want to notify various restrictions and only some of them are small-scale, you need to ensure you give us the five working days’ notice that are required for the larger-scale restrictions.

D.1 Notifying now any discretionary ‘28 day’ restrictions

Section D.1 is split into four separate tables. If some of your restrictions are for one purpose and some for another purpose, please start a fresh table for restrictions with a different purpose.

Land parcel name(s)

(Section D.1, Column 1)

Please list here the names of the land parcels to which you wish to apply the restriction. List the appropriate land parcel names from those you have given in section A.2, or registered with us previously for the person or organisation with this CROW ID. If the same restriction will affect all of the land parcels you have registered with us, simply write “ALL” in column 1.

Period of restriction

(Section D.1, Columns 2 and 3)

Please show here, for each land parcel you have specified in column 1, the start and end dates and, if appropriate, start and end times when you propose the restriction should apply. For times, please use 24 hour clock entries (for example 07:00, 23:00). If you show no times, we will assume you are notifying a midnight to midnight restriction.

Each period notified will count as one day used from the 28 day allowance you hold for the calendar year – or if the restriction period runs from before to after midnight, it will count as two days used.

Form of restriction on CROW access

(Section D.1, Columns 4 to 9)

The various forms of restriction that are possible under the Act

are summarised at the top of columns 4 to 9. Please tick the relevant column to show, for each land parcel you have specified in column 1, which form(s) of restriction you are notifying. If you tick “Other” (column 9), please explain in the box at the bottom of the table what form the restriction will take instead of the options shown at columns 4 to 8.

We strongly recommend that you identify the least form of restriction that meets your needs. Visitors to your land are more likely to respond positively if they can see why the restriction is necessary.

For some forms of restriction, you will need to show relevant information on a map enclosed with Form OACC2 - such as the routes you wish people to keep to, or the places where they must enter the land during the restriction period.

Purpose of restriction

(Section D.1 – bottom left box of each table)

Please briefly explain here the reason(s) why you are restricting CROW access in the way shown in the table.

If some of the restrictions you want to notify are for one reason and some are for another, please start a separate table in Section D.1 for each set of restrictions with a different purpose.

Part E – Discretionary dog exclusions

If eligible, you can use this section now to notify discretionary dog exclusions on grouse moors, or on lambing enclosures of less than 15 hectares where these fall on CROW access land. If you prefer, you can notify the exclusion online (see Introduction above for web address). You cannot notify a discretionary dog exclusion by telephone.

For a grouse moor, we must receive the notification at least one calendar month before the dog exclusion is to begin. For a lambing enclosure, we must receive it at least five working days before the exclusion is due to begin.

Although we have used the term “discretionary dog exclusion” to summarise this power, such an exclusion only affects people wishing to use their CROW rights. It does not affect a blind person bringing a trained guide dog onto the land, or a deaf person bringing a trained hearing dog. It does not affect anyone’s ability to bring dogs onto the land under any other access rights, or along public rights of way. Nor does it directly affect any traditional dog-walking that has taken place on the land: it remains open to you to continue to tolerate such uses on your own terms.

For lambing enclosures, the exclusion only applies while the enclosure contains sheep at lambing time. At any times when sheep are not present in the enclosure, the exclusion does not apply. The maximum period of exclusion for lambing is a single period of up to six weeks in any calendar year.

E.1 Notifying now any discretionary dog exclusion on moorland managed for the breeding and shooting of grouse, and

E.2 Notifying now any discretionary dog exclusion on a field/enclosure used in connection with lambing

Since these two sections are structured identically, these notes are relevant to whichever of the two sections you are completing.

Land parcel name(s)

(Section E.1/E.2, Column 1)

Please list here the name(s) of the land parcel(s) to which you wish to apply the discretionary dog exclusion. Each parcel must be either land used for the breeding and shooting of grouse (for section E.1), or a field or enclosure of 15 hectares or less that is used in connection with lambing (for section E.2). By completing section E.1 or E.2, you are certifying that the land falls into this category.

Please use the appropriate land parcel names from those you have given in section A.2, or registered with us previously for the person or organisation with this CROW ID. If all of the land parcels you have registered with us are grouse moor or small lambing enclosures, and you wish to apply the same period of dog exclusion to all of them, please write "ALL" in column 1.

Period of restriction

(Section E.1/E.2, Columns 2 and 3)

Please show here, for each land parcel you have specified in column 1, the start and end dates for the discretionary dog exclusion. For a grouse moor, this period must not exceed five years. For a small lambing enclosure, it must be a single period of not more than six weeks per calendar year. Different periods may be shown for different land parcels.

(You do not need to enter the form of the restriction: this will always be exclusion of people with dogs from exercising the CROW rights.)

Continuation sheets

(Pages 7 and 8)

Only use the continuation sheets at the end of the form (or separate ones) if you need to. Please clearly label any entries that you do make to indicate which section(s) of the form you are continuing your response to.

Declaration

(Page 1)

Having filled in Parts A to E as appropriate, you must always complete and sign the Declaration on the front of the form before returning the whole form to the address shown.

By signing this Declaration:

- you certify that the information you have provided on the form is, to the best of your knowledge, correct; and
- you acknowledge that the form itself, and any personal or other information contained in it, may be disclosed to third parties:
 - in connection with the processing of the form (for example in processing the details on a computer system, showing non-personal information on a public website, or clarifying legal interests in land where the position is unclear); and
 - in connection with the law and good practice on freedom of information (under the Freedom of Information Act 2000, the Code of Practice on Access to Government Information and the Environmental Information Regulations, we may disclose non-personal information contained in the form to third parties on request.)

In accordance with the principles of the Data Protection Act 1998, we will not use the information you give us for direct marketing or other commercial purposes. We will only disclose your personal information to third parties if in our judgement it is necessary to do so in connection with the processing of your application.

What happens next

If you have not registered your details with us previously, we will send you confirmation of the details you have now registered, and supply your CROW ID. The CROW ID will be needed for all subsequent communications with us, so you should record it for future use. We will also send you printed maps showing how we have captured the land parcels you have registered with us. You should check whether we have correctly depicted these, and if not let us know what is wrong with our depiction.

If we do not have all of the required information, we will contact you for clarification.

Withdrawing a notified restriction

Subject to the rules summarised below, you can withdraw or reschedule a discretionary restriction or dog exclusion by emailing or writing to the Open Access Contact Centre. Once registered with us, you can do so by telephone instead if you prefer, so long as you quote your CROW ID and can give us the information we need over the phone.

If you want to withdraw or reschedule a discretionary '28 day' restriction, you must give us at least two working days' notice of this. This applies whether the restriction is small-scale or large-scale. If you do not give us two working days' notice, you will in effect 'lose' days from your annual allowance, because your notified restrictions will still apply at times when you do not need them.

For a grouse moor, you can withdraw or reschedule a discretionary dog exclusion at any time before or after it takes effect.

You can only reschedule a discretionary dog exclusion for a lambing enclosure if you give us notice of this at least two working days before the exclusion comes into effect. Once the period of exclusion has started, you cannot withdraw it and specify a different exclusion period during the same calendar year, because the Act rules this out.

Queries

Should you have any queries about discretionary restriction powers, about using Form OACC2, or about another CROW restrictions issue, please call the Open Access Helpline or contact the Open Access Contact Centre. The details are on the front of the form.