

# Statutory restrictions on access land

A guide for land managers

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## A guide for land managers

This booklet is part of a guidance pack for people who own, farm or manage CROW access land in England, or who give advice to people who do. It explains how you can use your legal powers to limit the new access rights where necessary. These powers are called statutory restrictions and exclusions – or ‘restrictions’ for short<sup>1</sup>. In England, restrictions are administered centrally by your relevant authority, which is:

- The National Park Authority, for land in National Parks.
- The Countryside Agency, for land outside National Parks.
- The Forestry Commission, for dedicated woodland.

This booklet has been issued on behalf of all the relevant authorities in England. Your first point of contact on restrictions and other access matters is our open access helpline – contact details are on page 20.

Restrictions only affect the CROW access rights, so they can only be used on CROW access land. The cover of the folder this guidance comes in explains what CROW access land is, and what people are entitled to do there. If you read that first, it will help you make sense of this booklet – if you don’t have the folder (CAX 150F), the information is on our website or you can call the open access helpline for a copy.

[Blue text in the booklet explains which section to read next.](#)

[Green text explains how you can find out more information.](#)

<sup>1</sup> Our guidance is based on regulations which can be viewed on the website of the Department for Environment, Food and Rural Affairs at [www.defra.gov.uk](http://www.defra.gov.uk)

# Contents

1 Introduction	4
2 Using the restrictions system – a short guide	5
3 Using the restrictions system – detailed advice	7
- <b>Step A:</b> Is my land CROW access land?	7
- <b>Step B:</b> Is it necessary to do anything?	7
- <b>Step C:</b> Is a restriction necessary?	7
- <b>Step D:</b> What form should the restriction take?	8
- <b>Step E:</b> Am I entitled to use discretionary powers?	9
- <b>Step F:</b> What should I do if I want to use discretionary powers?	11
- <b>Step G:</b> Am I entitled to apply for a direction?	12
- <b>Step H:</b> How do I apply for a direction?	14
4 How will my application be decided?	16
5 How do I appeal against a decision?	16
6 How do I notify the public about restrictions on my land?	17
7 How do I register with the open access contact centre?	17
Glossary of terms used	19
How to contact us	20

# 1. Introduction

If you own or manage CROW access land, you will want to consider if this will affect your interests, once the CROW access rights come into force. There may be no need to make any special arrangements for this for example, if there are already rights of way or permissive paths across the land, or customary access to it. But you may see the need to manage access, perhaps to protect the public from danger, or so that you can carry on your business without inconvenience. You can do this either informally, or through legal restrictions.

## Informal access management

Informal access management offers several advantages over restrictions:

- You don't need any paperwork or permission to manage public access informally, whereas you will have to fill in some forms to use restrictions – that's unavoidable.
- Informal management techniques require no advance notice or approval, so they may be the best way to manage public access at short notice.
- Restrictions only affect the CROW access rights. They have no effect on rights of way, or on any other forms of access to your land – whereas informal management techniques can still influence public access in these circumstances.
- You may find that the public respond better to informal approaches, especially if the reasons are clear and the messages are positive.
- It is also worth remembering the reduced occupiers' liability that applies where CROW access rights are in force. There is a leaflet about it in this pack and on our website (CAX 150-1). If you use restrictions, your liability may become higher while the restriction is in force, whereas, if you use informal techniques instead, it will stay at the reduced level.

If informal approaches to managing public access interest you, there is a booklet in this pack and on our website, [Positive access management, CAX 150-3](#), that explains some basic techniques and tells you where you can go for more detailed advice if you need it. If you don't have the booklet, get in touch with our open access helpline and they will send you a copy.

## Restrictions

You can use informal management to influence positively what people do on your land, but not to prevent them from exercising their rights. Restrictions, by contrast, can legally be used to limit or withdraw the CROW access rights. You may be able to treat someone who does not comply with a restriction as a trespasser. If this happens, they will lose their CROW access rights for 72 hours on any CROW access land you own.

You may decide that you can manage the CROW access rights adequately using informal approaches alone – but if not, you should consider restrictions. There are different restrictions powers available, depending on whether you are an owner, a tenant or have some other legal interest in the land. This next section explains what powers are available to you and how you can use them.

## 2. Using the restrictions system – a short guide

It may save you time in the long run if you can plan in advance how you will manage the CROW access rights – perhaps on an annual basis – and discuss the issues with any other people with a legal interest in the land.

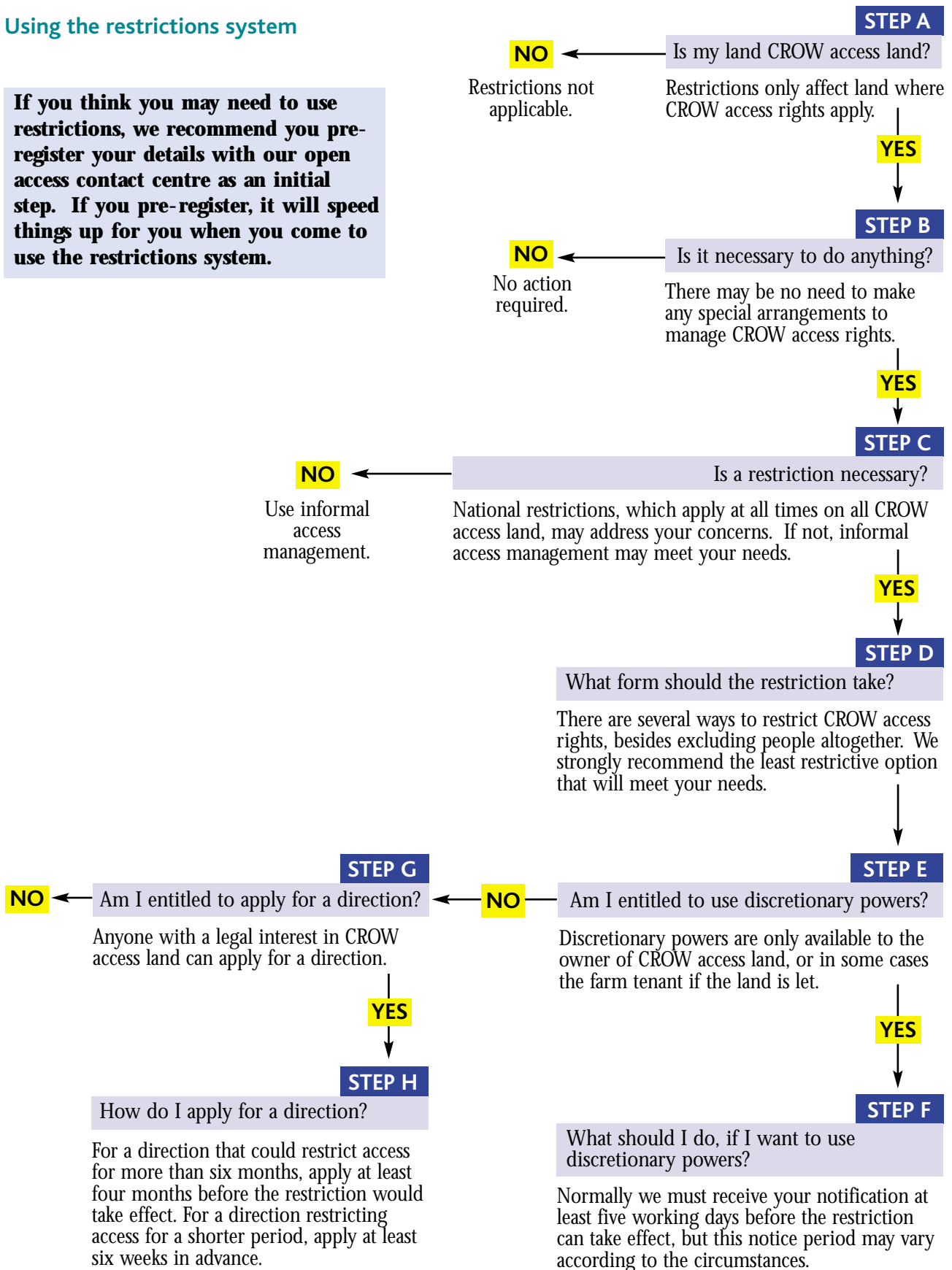
Your access authority may also be able to help you plan and manage CROW access rights. Our open access helpline can put you in touch with them if you don't know who they are.

Following the steps in the chart on page 6 will help you to plan the management of CROW access rights and to use the restrictions system if you decide it is necessary.

Section 3 explains each step in the chart in more detail. It will also give you an insight into how we will determine applications for directions, if you decide to apply. There will be local factors that affect our decisions too, but the basic principles will be the same everywhere.

## Using the restrictions system

**If you think you may need to use restrictions, we recommend you pre-register your details with our open access contact centre as an initial step. If you pre-register, it will speed things up for you when you come to use the restrictions system.**



Section 4 explains how we will decide your application.

Section 6 explains how to notify the public about restrictions on your land.

## 3. Using the restrictions system – detailed advice

### Step A: Is my land CROW access land?

Restrictions are only available on land where CROW access rights apply. The cover of the folder (CAX 150F) explains how to find out if your land is CROW access land.

### Step B: Is it necessary to do anything?

You may decide there is no need to make any special arrangements to manage CROW access rights. For example, if you already have public access across your land, the situation may not change when the CROW access rights come into force. You may also find that at certain times, or in certain parts of your land, there are few or no visitors to think about. If you have no previous experience of public access on your land, we suggest you talk to other land managers in the area to find out about their experiences and see what you can learn from them.

### Step C: Is a restriction necessary?

Ask yourself what the simplest and most effective way to manage the situation will be. A sign making an informal request to visitors may do the same job as a restriction. If you can plan and set out clear routes that visitors can follow, you may not need signs or restrictions at all.

Your access authority has powers to erect notices, install means of access – gates for example – and appoint wardens on CROW access land. They may also be able to advise you on any grants that are available for access management. The open access helpline can put you in touch with them if you don't know who they are.

Remember there are national restrictions, which apply at all times on all CROW access land. For example, people may not leave litter or light fires under CROW, so you won't need local restrictions to stop them doing so. People using CROW access rights must also keep their dogs on short leads between 1st March and 31st July and at all times in the vicinity of livestock, so you won't need local restrictions for this.

If you do experience problems with people not complying with the national restrictions, you should contact your access authority for advice and help. You can read about the national restrictions on the cover of the pack or on our website.

It's also important to realise that restrictions only limit the CROW access rights. They have no legal effect on public rights of way or any other access arrangements you may have on your land. So, for example, people will still be able to walk along a right of way even if you exclude them from access land either side of the path. In circumstances like these, you may consider informal approaches to access management – either instead of, or in addition to using restrictions.

A restriction is most likely to be necessary either because informal access management is too difficult or costly, or because the risk of damage, disruption or public injury on the land makes a legally enforceable solution necessary.

Step D explains different ways to limit or suspend CROW access rights where necessary using restrictions.

## Step D: What form should the restriction take?

You may be able to restrict the CROW access rights in several different ways depending on the circumstances. For example:

- require the public to keep their dogs on leads – but remember this is already required at certain times by the national restrictions (see Step C).
- exclude people with dogs from the land – but if you are applying for a direction as a commoner, this option is not available to you.
- restrict the public to designated paths, or require them to enter CROW access land at designated entry points.
- or exclude people altogether from the land – but if you are applying for a direction as a commoner, this option is not available to you.

You may be able to use these restrictions on all of your access land, or just a part of it. And the restriction can apply for a whole day, consecutive days, or just part of a day.

If you are using the 28-day allowance (see step E), this choice is entirely up to you. But if you apply to us for a direction (see step G), we will need to be certain that the restriction is necessary before giving it.

In any case, we strongly recommend you identify the least restrictive option that will meet your needs. Visitors are more likely to respond positively if you do so, and will find it easier to comply with the restriction. As an example, if you are carrying out hazardous work on the land, you may find it possible to leave certain safe and convenient routes open for the public to use. Or you may only need to restrict access across part of the access land to do the job, allowing the public to pass easily around the affected area.

Steps E to H explain who is eligible to use discretionary powers and directions to restrict the CROW access rights – and how to use each if they are available to you.

## Step E: Am I entitled to use discretionary powers?

Discretionary powers are only available to the owner of CROW access land, or in some cases the farm tenant instead, if the land is let. If you are not the owner or farm tenant, you may want to apply for a direction to restrict CROW access rights – step G explains how directions work.

There are two discretionary powers to restrict CROW access rights – discretionary restrictions and discretionary dog exclusions.

Discretionary restrictions allow the owner or farm tenant of CROW access land to restrict CROW access rights for up to 28 days in each calendar year. Discretionary restrictions are not available to the owner if the land is let. We sometimes call discretionary restrictions ‘the 28-day allowance’.

Discretionary dog exclusions are additional powers to exclude people with dogs:

- If you are the owner or farm tenant, you may exclude people with dogs from small enclosures used in connection with lambing. Again, this power is not available to the owner if the land is let.
- If you own a grouse moor, you may exclude people with dogs for up to 5 years. This power is not available to tenants.

These powers are all discretionary, in the sense that you don’t need to apply for permission to use them – but you must notify us in advance if you intend to use them. Step F explains how to notify us, but you should read the rest of this section before proceeding.

### Using discretionary restrictions (the ‘28-day allowance’)

You can use the 28-day allowance to restrict access for any reason and on any area of CROW access land, but you cannot use them on:

- bank holidays, Christmas Day or Good Friday;
- Saturdays between 1st June and 11th August;
- Sundays between 1st June and 30th September;
- more than 4 weekend days (Saturdays or Sundays or both) in any calendar year.

You can use the 28-day allowance for a whole day, consecutive days, or just part of a day. If you are using 28-day allowance for just part of a day, that part still counts as a whole day in calculating your remaining allowance. If the restriction runs across midnight, it counts as two days from your allowance.

If you jointly own, or jointly rent CROW access land, you share the 28-day allowance with the other owners (or tenants) of the land. We suggest you discuss with the other owners or tenants how you intend to use it.

### Using discretionary dog exclusions

Discretionary restrictions (the 28-day allowance) may enable you to exclude people with dogs from access land if you need to, but you may be able to use the following, additional powers for this instead:

- If you are an owner (or, if the land is let, the farm tenant), you may exclude people with dogs from any field or enclosure of up to 15 hectares while you are keeping sheep in it for lambing – but only for one period of up to six weeks in each calendar year. You can specify different six-week periods for different fields if you wish. If you want a longer exclusion – or you use a larger area for lambing – you will need to use discretionary restrictions, or apply to us for a direction.
- If you own a managed grouse moor, you may exclude people with dogs for up to five years at a time. The exclusion can apply to the whole moor or just part of it, depending on what you think is necessary. If you just want to restrict dogs to leads on the moor, you can apply to us for a direction for this.

Unlike the 28-day allowance, there are no limitations on the days of the week or times of year when discretionary dog exclusions may be used. They do not prevent people from taking trained guide dogs or hearing dogs on to CROW access land – and neither do they affect existing access rights or traditions. For example, people will still be able to walk their dogs along a right of way, even if you exclude people with dogs from CROW access land on either side.

You must notify us in advance if you want to use the discretionary powers – Step F explains how to do this. If the discretionary powers are not sufficient to address all your concerns – for example, if you want to restrict access for more than 28 days on one parcel of CROW access land, or if you want to restrict access on days when the 28-day allowance is not available – you will need to apply to us for a direction, step G explains how directions work.

## Step F: What should I do if I want to use discretionary powers?

If you think you will need to use discretionary powers, we recommend you register your details with our open access contact centre well in advance through the helpline or website (see section 6), but you are not obliged to do so. This step explains what you **must** do before using the discretionary powers.

### Notifying discretionary restrictions (the '28-day allowance')

If you want to use the 28-day allowance, our open access contact centre must normally receive your notification at least five working days before the restriction can take effect. This gives us time to put the details on our public website. However, under the following circumstances, you can notify us later, so long as we receive at least two hours notice before the restriction takes effect:

- for areas of up to five hectares, if the restriction applies for no more than five days; or
- for any areas, if the restriction applies for no more than four hours.

But you can only do this if the restriction does not prevent people from reaching any other land where there is a right of access.

If your plans change after you have notified us about a discretionary restriction, you can withdraw it up to two working days before the restriction is due to take effect. Provided you do so, we will credit your 28-day allowance accordingly.

### Notifying discretionary dog exclusions

If you want to use discretionary dog exclusions, our open access contact centre must receive the following notice:

- to exclude dogs from lambing enclosures – at least five working days before the restriction can take effect;
- to exclude dogs from grouse moors – at least one calendar month before the restriction can take effect.

If your plans change after you notify us of discretionary dog exclusions for lambing, you may withdraw it up to two working days before the restriction takes effect. You will then be able to notify a different exclusion period if appropriate. Discretionary dog exclusions on grouse moors may be withdrawn at any time after you have notified us.

You can notify (and withdraw) discretionary restrictions and discretionary dog exclusions by email or post. A notification form is included in your pack, together with all our contact details.

Section 6 explains how to notify the public about restrictions on your land.

## Step G: Am I entitled to apply for a direction?

Unlike the discretionary powers, a direction is not an entitlement – to get one, you need apply to us and to show that it is necessary on grounds set out by the CROW Act. We may give the exact direction you apply for, or one that varies some details. We may also refuse your application if we do not feel a direction is necessary in the circumstances.

Anyone with a legal interest in CROW access land can apply for a direction. The range of legal interests is wide and includes owners, tenants, commoners and individuals or organisations with sporting or other ‘property’ rights over land held under licence or agreement.

If you have a legal interest in CROW access land, you can apply for a direction to restrict access on any day of the year, but only for land management, public safety or fire prevention reasons. The paragraphs below explain more about each of these grounds.

If you are a commoner (ie. you hold registered rights of common over CROW access land), you can only apply for a direction if you need it in order to exercise your common rights. For example, if you hold grazing rights, you may want to seek restrictions connected with grazing your animals – but you cannot do so in connection with activities for which you hold no registered rights, such as cultivating the land or applying chemicals to it in order to improve the grazing

### Directions for land management

You can apply for a direction where a restriction is necessary in connection with any type of land management activity on CROW access land – including farming, forestry, sporting activities and events. But if you apply as a commoner, remember you may only apply for directions directly related to the registered common rights you actually hold.

### Directions for public safety

You can apply for a public safety direction if you are planning an operation that would put the public at risk – for example, tree harvesting or using dangerous substances. You can also apply if something done on the land in the past puts the public at risk – for example, dangerous abandoned mineral workings.

If you are concerned about public safety, you could conduct a risk assessment or review your existing one. A risk assessment will help you to identify any risks to the public on your land and decide how best to manage them. It may also be required by law, depending on the circumstances. The Health and Safety Executive (HSE) can provide advice on meeting health and safety requirements and risk assessment methods in particular<sup>2</sup>.

<sup>2</sup> HSE Infoline 08701 545500 or [www.hse.gov.uk](http://www.hse.gov.uk)

We can give a public safety direction on CROW access land without receiving an application, but we don't expect to do this except in emergencies. If we do, we will send a copy of the direction to the owner (or the tenant, if the land is let) provided we know who they are.

We cannot give a public safety direction to manage risks arising from natural features in the landscape, such as cliffs or potholes. Often these risks should be obvious to the public and the main onus is on the public to keep themselves and their children safe. You are not liable for any injuries that may arise from natural landscape features while the CROW access rights are in force (see our separate leaflet on liability, CAX 150-1). If you are still concerned about a particular danger of this sort, think about warning visitors about it with a simple sign – but this is not something you are required or expected to do, particularly where the risk is obvious.

### **Directions for fire prevention**

You can apply for a direction for fire prevention, but we can only give directions for this purpose when weather or ground conditions are exceptional. The Meteorological Office is developing a system to help us decide when these conditions are exceptional. Before applying, you will be able to check on our website whether conditions are rated as exceptional.

We can also give a fire prevention direction on your CROW access land without receiving an application from you, but we don't expect to do this except in the most exceptional conditions. If we do, we will send a copy of the direction to the owner (or the tenant, if the land is let) – provided we know who they are.

[Step H explains how to apply to us for a direction either for land management, public safety or fire prevention.](#)

### **Directions for other purposes**

We can give a direction on CROW access land without receiving an application for nature conservation or heritage preservation reasons, but you cannot apply to us for a direction on these grounds. We will normally only make directions for these reasons after receiving advice from English Nature or English Heritage. If we do, we will send a copy of the direction to the owner (or the tenant, if the land is let) provided we know who they are.

The Secretary of State for Defence or the Home Secretary may give directions for defence or national security reasons. Again there is no power for you to apply for such a direction, but where practicable they will notify the owner (or the tenant, if the land is let) where a direction is made.

## Step H: How do I apply for a direction?

If you think you will need to use directions to manage the access rights, we recommend you register your details with our open access contact centre in advance (see section 7), but you are not obliged to do so. This step explains what you must do when applying.

If you want to apply for a direction, check first at step G that the grounds for your application are legal.

### Directions lasting longer than six months ('long-term directions')

If you apply for a direction which could restrict access for more than six months, we must reach a decision within four months of receiving your application. We call these long-term directions. The four-month decision period gives us time to consult your local access forum and other interested parties, which we **must** do if we think a long-term direction will be needed.

### Directions for shorter periods

If you apply for a direction restricting access for a shorter period, we must reach a decision within six weeks of receiving your application. The six-week decision period gives us time to consider the circumstances of your case carefully before reaching a decision and to contact you if we need more information.

In either case, try to apply as soon as you think you may need a direction and make sure you leave us at least four months or six weeks, as appropriate, to reach our decision. If your case is urgent, you can tell us this on the application form and we will do our best to reach a decision in less time, but we cannot guarantee it. Remember that if discretionary powers are available to you and meet the need, it will be much quicker and easier to use these and you won't need to wait for our decision.

If your plans change after you apply, you can withdraw your application at any time before we reach a decision.

### **Outline directions – when you are unable to specify exact dates**

In some circumstances you may not be able to tell us far in advance the exact dates when you would like restrictions to apply, for example, if you are planning operations such as aerial spraying, timber harvesting or shoots which are dependent on weather or market forces.

In these circumstances we can give an 'outline direction' if we decide it is necessary. After that you will need to let us know the exact dates at least five working days before you want the restriction to apply. If appropriate we may agree with you a shorter notice period than five days, or require a longer one.

This application method also allows you to apply for a restriction for the same type of activity on multiple days. This may be useful to you if you carry out the same activity regularly each year, or on a number of days spaced out over a period – such as sporting activities or events.

You can apply for directions of any type (and withdraw an application) by email or post. An application form is included in the pack, together with all our contact details.

## 4. How will my application be decided?

When you make an application, our open access contact centre will check that you are entitled to apply, make sure you have supplied all the basic information we need, and get in touch with you if there is a problem.

We must decide whether the restriction you are seeking is necessary in all the circumstances of your case. We use a process similar to the steps in section 3 to decide applications. You can help us decide your application more quickly by including information that addresses the same steps. We may need to ask you or your access authority for further advice before reaching a decision. In some cases we may ask someone to visit the site with you so that we can better understand the situation on the ground.

[If you want to understand in more detail how we decide applications, you can look at the statutory guidance on our website.](#)

If we decide to give a direction, it may be exactly what you have applied for, or it may vary in some details – for example:

- we may specify a smaller area if we decide this will meet your needs;
- we may specify a less restrictive option, such as restricting dogs, or limiting access to designated routes; or
- we may specify a maximum period, or a maximum number of days, for example, if shooting seasons or planning conditions apply.

[If we intend to refuse a direction or vary the details, we will write to you and explain our reasons. We will send a copy of any direction to both you and your access authority.](#)

## 5. How do I appeal against a decision?

If you disagree with our decision – either because we refuse to give a direction, or because we give one that varies from the one you asked for – you have a right of appeal to the Secretary of State. You must appeal within six weeks of the date we issue our decision.

Appeals will be handled by the Planning Inspectorate Executive Agency. The CROW access rights will remain in force on the land until they have decided the appeal – unless of course there are restrictions already in force for other purposes.

[We will automatically send you the information you need to make an appeal if we refuse your application or vary the details in any way.](#)

## 6. How do I notify the public about restrictions on my land?

A restriction will only be effective if the public know about it. We will publish a map on our website with details of any restrictions in force on your land, which the public can consult. Not everyone will check on the website before they make a visit, so you may want to draw attention to restrictions on the ground too. Otherwise people may unwittingly trespass on your CROW access land.

Your access authority has powers to erect notices on access land and may be able to help or advise you on how to notify the public of restrictions. We can put you in touch with them if you don't know who they are.

We may also give a direction on CROW access land without receiving an application from you. We can only do this for nature conservation, heritage preservation, public safety or fire prevention. If this happens, we will contact the access authority, who may make arrangements to let the public know about the direction on the ground.

## 7. How do I register with the open access contact centre?

We recommend you register your details with the open access contact centre in advance through the website or helpline, if you think you will need to use the restrictions system. You don't have to register in advance, but it will help to speed things up for you later if you do.

We also recommend you register in advance any parcels of land where you intend to restrict access. This may help you to plan how you intend to use restrictions and should allow us to process your notifications and applications more quickly. Try to use recognisable physical features – such as fences, walls or streams – as boundaries where possible, or choose parcels that you use regularly for management, such as shooting drives. The registration forms in the pack explain more about how to do this.

You can register with us by email or post. A form for this is included in the pack, together with all our contact details.

Depending on the information you register, you may then be able to notify the Contact Centre of certain details by telephone eg '28 day' restrictions or restrictions under an outline direction.

## Glossary of terms used

You may find it useful to refer to these short definitions as you are reading. We provide fuller explanations in the booklet where necessary.

**Access authorities** are public bodies with powers to help manage CROW access rights on the ground. Your access authority will be the National Park Authority or the local highway authority, depending on where your land is. The cover of the pack explains more about the powers of access authorities.

**Commoner** means someone with rights of common registered under the Commons Registration Act 1965.

**The CROW Act** is an abbreviation for the Countryside and Rights of Way Act 2000 that introduces rights of access over CROW access land.

**CROW access rights** means the public rights of access available under the CROW Act. CROW access rights are additional to other, existing forms of access – for example, along rights of way – and do not alter them. The cover of the folder, CAX 150F, explains more about CROW access rights.

**CROW access land** means any land where the CROW access rights apply. The cover of the folder, CAX 150F, gives more detail about CROW access land.

**Directions** are given by us (as relevant authority) to restrict or exclude access where we judge this necessary on the grounds set out by the CROW Act. Any person with a legal interest in CROW access land can apply for a direction – but unlike the discretionary powers, there is no automatic entitlement to directions (see step G).

**Discretionary dog exclusions** are powers available to the owner (or in certain cases, the farm tenant) to exclude people with dogs from using CROW access rights on grouse moors, or in small enclosures used for lambing (see step E).

**Discretionary restrictions** are powers available to the owner of CROW access land or – if the land is let – the farm tenant. They are called ‘discretionary’ because you don’t need permission to use them, but you must notify us in advance if you intend to use them and there are some limitations on when you can use them (see step E).

**Local access forums** are bodies that have been established to advise on improving public access for open-air recreation. We must consult the local access forum before giving any direction that could restrict access for longer than six months (see step H).

**Long-term directions** are directions that could restrict access for longer than six months. As relevant authority, we must consult publicly on a long-term direction before giving one (see step H).

**National restrictions** are the limitations on CROW access rights that apply at all times on all CROW access land. National restrictions do not alter other existing forms of access – for example along rights of way. The cover of the folder, CAX 150F, explains more about them.

**Outline directions** can be given by us (as relevant authority) where it is impossible at the time of application to specify exactly when a restriction will be needed. Applicants must then notify the exact dates at least five working days before the direction can apply.

**Relevant authorities** are the bodies responsible for administering restrictions on CROW access land. ‘We’ in this booklet means the relevant authority.

**Regulations** means The Access to the Countryside (Exclusions and Restrictions) (England) Regulations 2003 (SI 2003 No.2713).

**Restrictions** means limitations that apply at a local level. The effect of these local restrictions may be to completely suspend CROW access rights (‘exclusions’) or to limit them in a specific way for a stated period. They complement the national restrictions that apply at all times on CROW access land. Restrictions do not alter other existing forms of access – for example, along rights of way.

## How to contact us

If you need more information about restrictions, including any notifications or applications you have made to us, or about any other aspect of the access rights, our open access contact centre will be able to help:

**0845 100 3298**

or visit the website

**[www.countryside.gov.uk/widerwelcome/open\\_access](http://www.countryside.gov.uk/widerwelcome/open_access)**

E-mail: [openaccess@countryside.gov.uk](mailto:openaccess@countryside.gov.uk)

Post: Open access contact centre, PO Box 725, Belfast BT1 3YL